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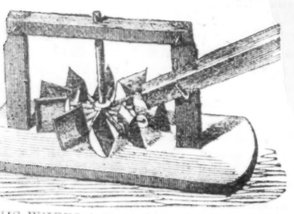

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Fearful Storm.

A severe hail storm visited the southern ...tion of Burr Oak Prairie, Wisconsin, ...the 6th instant. The track of the ...m was about half a mile wide, and ...ion it scarcely a green thing is left ...nding. Some of the grain was literally ...nded into the earth. A Mr. Toynee ...d a rye field containing forty acres, and ...a spear or blade is left standing.—...ier fields are in the same condition.—...adly a pane of glass was left whole in ...y house within the limits of the storm. ...oak grubs and saplings had their ...ves and a great part of their bark whipped off.

A general drought prevails in the Lunenburg (Va.) section. Corn and tobacco are ...suffering greatly.

Wilmington Journal.

VOL. 25. WILMINGTON, N. C., FRIDAY MORNING, JULY 30, 1869. NO. 25

RATES OF ADVERTISING

1 square, of 10 lines or less, for each and every insertion, $1.

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STATE NEWS

Maj. John B. Griswold died at his residence in this town yesterday morning, at one and a half o'clock, after a long and painful illness. His sufferings were great until death came to his relief.

Goldsboro' *Mess.*

CRAVEN STREET JAIL.—There are thirty-eight prisoners in Craven street jail, four of which are females. Several have been discharged within a few days, and the sentence of many more will expire during this and next week.—Newbern *Times.*

The first cotton balls opened, were shown to us yesterday by Capt. J. W. Potter, from Potter & Hume's "Wildwood" Plantation. This places Craven county ahead, it being the first open cotton balls reported.—Newbern *Times.*

We learn that Bozier's "melish" acted very badly while on the train coming up from Newbern yesterday morning. A collision between some of the "melish," who were under the influence of "benzine," and one or two citizens was only prevented by the timely interference of Bozier himself.—Golds. *Mess.*

SUPREME COURT—Tuesday, July 20th.—Court met at the usual hour; all the Justices present.

In Hyman vs. Devereaux, from Halifax, order of judgment below, vacating injunction, affirmed that part of order which directs the surplus to be paid into Court, reversed.

In Mary McLaurin, *ex parte*, from New Hanover, dismissed.—Ral. *Sentinel.*

THE CROPS—EDGECOMBE FARMERS.—The reports from our farmers are encouraging in the highest degree. On Tuesday we had the pleasure of meeting in our office and on the streets a large number of the best of Edgecombe's planters, and from all did we hear the most satisfactory accounts of the condition of their crops.

It is no idle boasting to say that Edgecombe is regarded as the banner agricultural county of North Carolina and that the opinions of her experienced farmers are looked to with considerable interest throughout the entire State.

Tarboro' *Southerner.*

A MEAN SNEAK.—Sometime during last week a contemptible sneak thief broke through the windows of the Episcopal Church, at this place, and carried away the alms box, which was attached to the wall near one of the inner entrances. The box was the receptacle for the pious offerings of the congregations in behalf of the poor of the parish, and would be considered sacred from the touch of even the most depraved rascal.

We understand that the hardened wretch failed to find any compensation for the penetration of one of the most villainous cases of stealing on record.

A North Carolina dress of tar and feathers would be too small a punishment for such a contemptible sneak.

Tarboro' *Southerner.*

WORK ON THE WILLIAMSTON & TARBOROUGH RAILROAD.—The different contractors upon this Road are pushing their work rapidly forward.

There are now two hundred hands actively employed, who have, at various points along the line, fully graded about ten miles. Between this point and Bethel are employed one hundred, and grading is finished three miles from Tarborough.

Mr. H. D. Robason, at Robasonville, has about thirty, who have finished two miles, and a force of fifty at Williamston has pushed the work more than five miles from that place.

A much larger force will probably soon be put upon the Road, a nd work will be then going on at every point of the line.

Tarborough *Southerner.*

CHATHAM RAILROAD MEETING.—The annual meeting of the stockholders of the Chatham Railroad Company was held at the office of the Company at Raleigh on Monday, the 19th inst., and was organized by calling Col. John L. Morehead of Charlotte, to the chair, and appointing Joseph B. Batchelor and W. W. Vass secretaries.

The committee on Proxies reported that a large majority of the stock of the company was represented in person and by proxy.

The report of the President and Board of Directors, Treasurer, and of C. A. Sanford, Chief Engineer, were severally read and accepted.

The act of the last General Assembly, entitled "an act to enable the Chatham Railroad Company to complete its Road," ratified the 10th day of April, 1869, was unanimously accepted and adopted as a part of the charter of this company.

The following gentlemen were elected Directors for the ensuing year, namely:—Dr. W. J. Hawkins, Geo. W. Mordecai, Jos. B. Batchelor, Geo. Little, S. S. Royster, C. H. K. Taylor and Jos. B. Littlejohn.

At a meeting of the Board of Directors, held after the adjournment of the stockholders' meeting, Dr. W. J. Hawkins was re elected President, and W. W. Vass, Treasurer.—Ral. *Sentinel.*

SUPREME COURT—Wednesday July 21.—All the Justices present.

Opinions were delivered as follows:

By Pearson, C. J.—In **Newlin** vs. Murray, from Alamance, Judgment affirmed.

In State vs. Wiseman, from McDowell, appeal dismissed.

In McAdoo vs. Benbow, from Guilford, judgment reversed. Rodmon, J. dissenting.

In Peebles vs. Peebles, from Wake, judgment reversed and new trial.

By Dick, J.—In Mason vs. Miles, from Northampton, error, injunction vacated.

In Stanly vs. Massingill, from Johnston, reversed.

In Crocker, *ex parte* from Wake, decree declaring rights.

By Reade, J.—In Harris vs. Ricks, Hill & Co., from Halifax, no error.

In Haywood vs. Bryan, from Wake, no error.

In Hughes vs. Person, from Northampton, error.

In Stephenson vs. Person, from Northampton, error.

In Long vs. Pato, from Northampton, error.

In Futrell vs. Spivey, from Northampton, no error. Affirmed.

By Rodman, J.—In State vs. Prince, from Cherokee, judgment reversed.

In Carr vs, Farmington, from Chatham, decree for plaintiff.

In Bessent vs. Harrison & Howell, from Rowan, judgment reversed *venire de novo.*

By Settle, J.—In Greenlee vs. Greenlee; from McDowell, Error,

In Hurdle vs. Leath, from Caswell. Decree for plaintiff.—Raleigh *Standard.*

THE CROP PROSPECTS.—From almost every quarter of this section cheering news comes to us as to the condition of the crops, the drouth having materially damaged the prospect only in some localities. We hope yet to see a fair return this Fall for the exertions of the farming public and a consequent return of something like good times.—Weldon *News.*

AN EPISCOPAL CHURCH.—We are pleased to know that an effort is to be made for the erection of an Episcopal Church in this place—the ladies at the helm of the movement will know no defeat, and we wish them God speed in their enterprise. We know that a response will be given by our people, as nothing is more sadly needed in this place than a good house of worship.

Weldon *News.*

A preliminary examination into the killing of militiaman Putney and the wounding of Moss, was had before Mayor Harrison yesterday. A large number of members of the company were examined, and much of the testimony was very irrelevant. Jeff. Bastion swore to seeing Sergeant W. S. Walker bayonet Putney as Putney was seizing a musket after threatening to kill the guard. Michael Connolly testified to having seen Sergeant Wm. Bell bayonet Moss; and Hill swore that Connolly ran when the struggle commenced, and could not see the scuffle, because his back was turned. No evidence was adduced against Hood, who is confined at Goldsboro'. Walker was committed to jail without bail; and Bell was committed in default of $5,000 bail to await the result of the wounds of Moss. Putney was buried yesterday. Moss is quite weak from the loss of blood, and is not out of danger.

Raleigh *Standard.*

BRUTAL ASSAULT.—Mr. Jas. Petteway, an old citizen of this county, was brutally assaulted and beaten by a negro named Moses Mott, on the highway near Little Bridge yesterday afternoon. The negro appears to have been drunk, and, taking offense at some imaginary insult from Mr. Petteway, snatched a large hickory stick from the hands of that gentleman and struck him a terrible blow across the head, inflicting a deep gash and felling Mr. Petteway to the earth. The negro then jumped on Mr. Petteway and in his fury would probably have killed him, if it had not been for Mr. H. E. Scott, who had ridden up a few minutes previous, and who at once pulled the negro off. A warrant has been issued by Justice McQuigg for Mott's arrest.—*Daily Journal 25th.*

Correspondence of the Journal.

Meeting of the Grand Lodge I. O. O. F. of North Carolina.

TARBORO', N. C., July 23, 1869.

The installation came off yesterday morning as per appointment, after which the death of L. D. Pender, of Edgecombe Lodge, and a member of the Grand Lodge, was announced. A committee was appointed who presented suitable resolutions in commemoration of his many virtues and of condolence with his family.

At the afternoon session R. Rep. Clark exemplified the unwritten work of the Order.

A resolution permitting Subordinate Lodges to instal their officers in public was adopted.

The usual resolutions were passed, when the Grand Lodge closed its session with a benediction by the Grand Chaplain.

At night the Grand Lodge, together with Edgecombe Lodge and several visiting brothers, assembled at the Edgecombe House to partake of a supper given in honor of the Grand Lodge.

When we entered the large dining-room of the hotel we found several tables groaning under the most choice viands that could tempt the epicure. We noticed Grand Master Smith, Grand Chaplain Repiton, N. G. Zoeller, and ex-Gov. Clark at the heads of the different tables. Soon the work commenced in earnest, and naught but the rattling of dishes and the clatter of knives and forks could be heard. Presently the confusion ceased, the wreck was cleared away, and toasts, song and sentiment ruled the hour. Speeches were made—some of advice, some humorous—wit and repartee was indulged until a late hour, when an Odd Fellows' ode was sung with a vim. The Grand Chaplain pronounced a benediction, and we all separated for our various stopping places.

I forgot to mention that on Wednesday night there was a grand ball given, to which, as I did not participate, I can merely refer.

On Friday morning we were escorted to the depot by various members of Edgecombe Lodge, some of them going with us as far as Rocky Mount.

Thus ended one of the most pleasant sessions of the Grand Lodge that it was ever my privilege to attend. Our entire sojourn in Tarboro' was one grand ovation, and I know that the members of the Grand Lodge will long remember the many kindnesses extended to them by the Odd Fellows of Edgecombe Lodge. I would like to mention some of them, but where all seemed to vie with each other it would be invidious to particularize. The whole occasion will be a green spot in our memory, like an oasis in the desert to the weary traveler, to which we will often turn in our weary pilgrimage through life. Y.

Pruning Tomatoes.

It is stated that gardeners in France cut off the stem of the tomato plants down to the first cluster of flowers which appears on them, thus impelling the sap into the buds below the cluster, which pushes up vigorously, producing another cluster of flowers. "When these are visible, the branch to which they belong is also topped down to their level; and this is done five times successively. By this means the plants become stout dwarf bushes, not over eighteen inches high. In order to prevent them from falling over, sticks or strings are stretched horizontally along the rows, so as to keep the plants erect. In addition to this, all the laterals that have no flowers whatsoever, are nipped off. In this way the ripe sap is directed into the fruit, which acquires beauty, size, and excellence, unattainable by other means."

Horticulturist.

From the Raleigh Sentinel.

CONSTITUTIONALITY OF THE HOMESTEAD ACT.

Opinion of the Supreme Court in the Case of Hill vs. Kesler, from Rowan, Delivered by Judge Reade.

The question involved in this case is whether the provision in our State Constitution exempting certain property from execution sale impairs the obligation of pre-existing contracts.

The provision in the Constitution is as follows:

Art. X. Sec. 1. The personal property of any resident of this State to the value of five hundred dollars, to be selected by such resident, shall be and is hereby exempted from sale under execution or other final process of any Court issued for the collection of any debt.

Sec. 2. Every homestead and the dwelling and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, &c., shall be also exempted.

There has been suitable legislation to carry out said provision.

We concede that if this exemption impairs the obligation of contracts, either expressedly or by implication, it is against the Constitution of the United States and therefore void.

The obligation of a contract is the duty of its performance according to the terms thereof. Any act which alters its terms, or enables either party, without the consent of the other to alter or evade its terms, impairs its obligation, and is, therefore, void. A promises to pay to B $100 on a given day. An act requiring him to pay a day earlier, allowing him to pay a day later, would alter the terms as to time and impair the contract. So an act requiring him to pay $101, allowing him to discharge the debt with $99 would alter the terms as to the amount, &c.

We concede, also, that a contract must be understood to be made with reference to existing laws for its enforcement. And if, at the time of the contract, there are laws in existence for its enforcement, it is the same as if the State were to say to the parties, there are now and so there shall continue to be, laws to enable each party to enforce the contract. And after such assurance, if the State abolish, or injuriously change the remedy, it would be violative of the Constitution of the United States and therefore void.

The contract in this case was made before the constitutional exemption, and therefore, when the debtor agreed to pay the creditor a certain sum, we are to enquire what was the remedy for the enforcement of that contract?

It was to sue him, get judgment, issue *Fi. Fa.*, levy upon and sell such property as he might have subject to execution.—Observe, not levy upon and sell any particular property, or all he might have; but only such as might be *subject to execution.* What is his remedy now under the Exemption Law? It is, to sue him, get judgment, issue execution, levy upon and sell such property as he has subject to execution. What is the difference in the remedy then and now? There is not only no injurious alteration, but there is no alteration at all, so far as the proceedings are concerned.

It was formerly the case that when a creditor got his judgment he had two remedies; one the levy upon and sale of property, and the other the imprisonment of the debtor. The Legislature abolished the remedy by imprisonment, which often brought the money when nothing else would, leaving only the remedy against the property. And then it was contended that the abolishment of the remedy of imprisonment impaired the contract. But the Courts in repeated cases, decided otherwise. The true import of the law being, not that the parties should have any particular or specific remedy, but a substantial and convenient one. In what way does the Constitutional exemption alter or impair the contract which these parties made? How is the remedy changed? What was the law at the time of the contract, and which became a part of it? Was it that all or any portion of the property, which the debtor had at the time of the contract should be liable to execution sale? Was that the creditor's security for his debt? Certainly not. The contract was personal and a lien upon nothing. Else, how would it be if the debtor had no property? or, if he had any, how would it be if he should sell it? Or, how would it be with property acquired after the contract? Or how, if a subsequent and more vigilant creditor should get ahead, and take the whole in execution? Or, in case of the debtor's death, how would the widow get dower, or a year's provision? Or, how would funeral expenses have the preference over all other debts? Those considerations make it plain that no such element enters into the contract, as that any particular property which the debtor has at the time of the contract, or which he may subsequently acquire, shall be liable to execution sale; or that any particular remedy is guaranteed. The guaranty is that the contract shall never be altered by law and that there shall be a remedy to enforce it. And the contract is made not only with reference to the remedy existing, but also to such reasonable changes as the interest of society require, and the State may think proper to make.

Against this view it is contended that there are express decisions to the contrary. If there be such by the Courts of our sister States, they are entitled to respectful, and if by the Supreme Court of the United States or by our own Court, they are entitled to the highest consideration.

The cases most pressed upon our attention in favor of the creditor are Bronson *vs.* Kinzie, 1 Howard 311, and McCracken *vs.* Haywood, 2 Howard 608, both decided by the Supreme Court of the United States. Bronson *vs.* Kinzie, where it was provided in a mortgage deed, that if the money secured was not paid at a given time the mortgagee might enter and sell. And the Legislature of Illinois passed an act to the effect that the mortgagee should not enter and sell as the contract said he might, but that he might enter and sell upon certain conditions not specified in the contract.—This was clearly an alteration of the contract and impaired its obligation. *It changed the contract of the parties.* But how is the contract changed in our case? Not at all. It stands word for word, as the parties made it. And so, too, the remedy, as we have seen, stands word for word.

The other case, McCracken *vs.* Haywood, arose under an act of the Legislature which allowed the contract to stand, and the remedy to stand, except that it provided that when the property levied on should be offered for sale, it should not be sold unless it brought two-thirds of its appraised value. The property was offered for sale and would not bring the price.—What, then, was the Court to do? The act applied to all the property the debtor had, and to all he might acquire. So that, whether he had much or little property, it could not be sold, and by no possible means could the creditor make his money. Clearly here was a deprivation of all remedy. But how is it in our case? The exemption does not cover all, but only *so much* of the debtor's property, and does not exempt his future acquisitions. It does not clog the execution sale with unusual terms, "which" was the ground upon which McCracken and Haywood was decided, but leaves it unembarrassed.—And if it should happen, as in our case, that all the debtor's property falls under the execution, it was not within the purview of the Constitution that it should, but is only the "*accident*" of the debtor's property, and does not affect the law. In the case of McCraken *vs.* Haywood, the Court ordered the property to be sold for what it would bring, as the *only* remedy left to the creditor. Our attention was called also to an elaborate opinion of Judge Carpenter, of the Circuit Court of South Carolina, Purcell *vs.* Whaley, reported in the newspapers, declaring the exemption laws of South Carolina, which are substantially the same as ours, unconstitutional and void. The authorities relied on by the learned Judge were among others of less importance, the aforesaid Bronson *vs.* Kinzie and McCraken *vs.* Haywood, and we have seen they do not sustain him.

Another case cited by him and directly in point for him, is Dank *vs.* Guackenbush, 3 Denio 594, decided first by the Supreme Court and then by the Court of Appeals of New York. But the attention of the learned Judge was not called to the fact, that in that case, the Judges in the Court of Appeals were equally divided, and therefore the decision in the Court below stood; nor to the important fact, that in a subsequent case in 1854, in the same Court, Morse *vs.* Gould, 1 Kernan 281, the case of Dank *vs.* Gauckenbush was received and overruled. Again, the case before Judge Carpenter did not involve the point whether the Exemption laws impaired the obligation of contracts, and therefore his opinion upon that question is only a *dictum.*—He states the principles involved in the cases as follows: "The judgment was by law a vested right, a lien, a contract. Had the State the Constitutional power to divest the plaintiff of his rights, and vest them in the defendant. Upon the principles involved in the case, there is no difference between liens by mortgage and by judgment, the former are specific, the latter general; but both are vested, legal rights," &c.

It will be seen, therefore, that the question involved was not that of impairing the obligation of contracts, under the Constitution of the United States; but of destroying liens and invading vested rights, under the Constitution of South Carolina. There is nothing therefore in that decision against any position, but the *dictum* of the learned Judges; for it is not pretended that in our case there was any lien or vested right, we are not therefore interested to inquire whether the learned Judge's decision, that "liens" and "vested rights" cannot be abolished by a State Convention in framing their organic law.

Our attention was called also to a decision of Judge Orr, of the Circuit Court of South Carolina reported in the newspapers, sustaining the South Carolina Exemption Laws.

We are not aware of a single decision except as before stated, either in the Courts of our sister States, or of the United States in which general exemption laws have been held to be an infringement of the Constitution of the United States. There being no decision against them, let us see if there are any in their favor.

The Legislature of New York, in 1842, passed an act exemping from execution—in addition to former exemptions—"necessary household furniture, working tools and team, not exceeding $150 in value."—The creditor obtained a judgment upon a debt existing before the act, and levied on the debtor's team, a pair of horses. And the question was whether the exemption was good against pre-existing debts. The opinion of the Court was elaborate and able, that the exemption was good, Morse *vs.* Gould, *supra.* The opinion is the more important as it re-revived and overruled a former case in the same Court, Dank *vs.* Guackenbush, cited by Judge Carpenter.

It also re-revived the cases of Bronson *vs.* Kinzie and McCrackin *vs.* Haywood, and indeed all the cases bearing on the subject, and distinguished them from that, as we have from this. In a late case in 9 Wisconsin, 559 Baumback *vs.* Bado, the case of Morse *vs.* Gould, *supra*, is re-revived and approved. And in Bronson *vs.* Kinzie. Taney C. J. says: A State Legislature may, if it think proper, direct that the necessary implements of agriculture, or the tools of a mechanic, or articles of necessity in household furniture, shall, like wearing apparel, not be liable to execution on judgments; and regulations of this kind have always been considered in every civilized community as properly belonging to the remedy, to be exercised or not by every sovereignty, according to its own views of policy, or humanity. It must reside in every State, to enable it to secure its citizens from unjust and harrassing litigation, and to protect them in those pursuits which are necessary to the existence and well being of every community."

And in a subsequent case Planters Bank *vs.* Sharp, C. Howard 301, Mr. Justice, Woodberry in ordering the opinion of the Supreme Court of the United States enumerated exemption laws, among the examples of legislation which might be Constitutionally applied to existing contracts. And in Biglow *vs.* Pritchard 21, Pickering, the Supreme Court of Massachusetts decided that the Legislature might lawfully diminish the creditor's remedy to enforce judgment by exempting a part of the property of the debtor from attachment on mesne process, or levy of execution, for example, articles of furniture, beds and bedding, &c., necessary for a debtor and his family. And in Morse *vs.* Gould, *supra*, it is said that general exemption laws are valid "though a case might happen possibly where the exempt property would constitute all that the debtor possessed." And in a late case, Stephenson *vs.* Osborne, 41, Miss. 119, reported in the April number of the American Law Review p. 476, the Supreme Court of Mississippi decided that the Mississippi exemption law "was Constitutional as to contracts existing at the time of its passage." We have a decision of our own Court directly in point. In Dean *vs.* King 13, p. 20, the Court decides, Ruffin, C. J. delivering the opinion that an exemption of a "mare and five hogs," under the act of 1848, was good against a debt contracted in 1846.

The case of Dean *vs.* King was this: The exemption laws of 1844 applied to debts contracted after 1st July, 1845, and it was insisted that the debt in that case was *contracted* before 1st July, 1845, although the bond for the contract was not executed until 1846. The Court said the exemption was not made under the law of 1844, because "a mare" was not embraced in that law, but it was made under the act of 1848, and that it was valid. It is true that it does not appear that it was objected, that the exemption act of 1848 could not apply retrospectively, but it could not have escaped the attention of the Court, nor of two eminent counsel who argued the case, that an exemption law of 1848, applied to a debt of 1846, did operate retrospectively as to the debt affected by it.

We have, too, our Legislative construction, and the practice of our Courts under it, for the last twenty years. The Revised Code, adopted in 1856, makes the exemption of: "One cow and calf, ten barrels of corn or wheat, fifty pounds of bacon, beef or pork, or one barrel of fish, all necessary farming tools for one laborer, one bed, bedstead and covering for every two members of the family, and such other property as the freeholders may deem necessary for the comfort and support of such debtor's family; such other property not to exceed fifty dollars," apply to all debts contracted since 1st July, 1845. It is true that, by the act of 1844, some of these articles were exempted, but the bulk of them were not embraced in any exemption act until 1848, and yet they were made to apply to debts as far back as 1st July, 1845.

So in 1866-'7 our Legislature passed an act exempting: All necessary farming and mechanical tools, one work horse, one yoke of oxen, one cart or wagon, one milch cow and calf, fifteen head of hogs, five hundred pounds of pork or bacon, fifty bushels of corn, twenty bushels of wheat, and household and kitchen furniture not exceeding $200 in value."

And this was not restricted to subsequent contracts, which is the more significant, as by the same act a homestead of one hundred acres without regard to value was restricted to subsequent debts. So that exemptions applying to antecedent debts have had the sanction of our Legislature and of this Court, and of the practice of all the Courts for the last twenty years. But then it is said that while that may have been so in regard to *necessaries*, yet our exemptions are too large, they are not necessaries. If it be conceded that the Legislature has power to exempt anything as to existing debts, then what are necessaries is a question for the Legislature and not for the Court. But our exemption laws heretofore have not been restricted to mere necessaries, but have looked to the "comfort and support of the debtor's family." Rev. Code, *Supra.* And the exemptions have been repeatedly and considerably increased to keep pace with the change of manners and customs and the condition of our people. It will readily appear that the late exemptions of personal property, in many instances, might greatly have exceeded $509. If the Legislature can exempt personal property, it is not pretended that it may not in like manner exempt real estate—a homestead.

It is objected that the Homestead law ought not to be construed to operate retrospectively. We admit that this is the general rule of construction; with an exception, however, in favor of remedial, and as sometimes called beneficial laws. All our laws in regard to remedies and procedure, have been lately altered by the new Code of Civil Procedure, and made to act retrospectively. No debt, no matter when contracted, can be sued for and recovered now as before the Code. Even the Courts themselves have been changed.

By the act of 1808, a summary remedy by motion for judgment on ten days notice was given against Sheriffs for collecting money and failing to pay over. A motion was made against a Sheriff for an antecedent liability. It was objected, that the act did not operate retrospectively. But this Court held the contrary, saying that "when an act takes away from a citizen a *vested right*, its constitutionality may be inquired into; but when it alters the remedy or mode of proceeding as to rights previously vested, it certainly runs in a constitutional channel. The acts are beneficial and should be favorably construed. Oates *vs.* Darden, 1 Murphy 501.

So a State Legislature may discharge a party from imprisonment upon a judgment in a civil action without infringing the Constitution; for this is but a modification of the remedy, 3 Story on the Con. 251, Mason *vs.* Haite, 13 Wheaton, R 370.

A Statute changing the rules of evidence may be applied to pending suits. Cooly Con. L, 381.

So a statutory privilege is not a vested right, as exemptions of persons or property from taxation; or exemptions of property from being seized by attachment or execution, Id. 383.

So Homesteads or other property which are now exempt under the Constitution might be made liable by a subsequent Convention, Id. N.

If, therefore, the Homestead Laws were not retrospective *in terms*, yet, as they are remedial, beneficial laws, interfering with no vested rights and are a part of the fundamental law of the land, they ought to be liberally construed in favor of the person to be benefited. But we think they do not depend upon *construction*, The plain words are that they shall apply to "any debts" all debts. And it is only by construction, and we think an erroneous construction, that they can be restricted to any particular class of debts.

But really the Homestead and exemption laws, although affecting antecedent debt are not restrospective in the proper sense of that term. What would be a prospective Homestead law? Evidently that which should allow a Homestead *to be laid off hereafter.* What, as contra-distinguished from that, would be a retrospective Homestead law? Evidently that which makes valid a Homestead which *has been laid off heretofore.* The great error is in supposing that the Homestead law is a law to defeat debts. That is no part of the object of the law. The laying off a Homestead is the sole object and is prospective altogether. If any debt is affected by it, it is merely incidental. It may be conceded therefore, without affecting the Homestead, that any law, the purpose of which is to defeat a debt is void. But the Homestead law declares its object upon its face to be, not to defeat debts, but to allow to every resident of the State, "and his children" and his "widow" a home and the means of living, if they have them.—It is a question, not of defeating debts, but in the language of Chief Justice Taney, "it is a question of policy and humanity, which every civilized community regulates for itself."

Its wisdom or folly, justice or injustice, is a question for the law making power, and not for the Courts. In our case, the law has the sanction of the Convention and of the Legislature, and of the direct vote of the people in adopting the Constitution, and of the Congress of the United States, which approved the Constitution. And, as it is not in contravention of the Constitution of the United States, it would be an assumption of extraordinary power for us to declare it void.

With the policy of these exemptions this Court has nothing to do. If they are within the power of the Legislature then it is sufficient for us that, "thus it is written."

We have not thought it necessary to notice the suggestion, that inasmuch as the sale of lands under execution is by Statute, so it may be exempted by Statute.

No question arises in this case to the interference with vested rights under our State Constitution, because the exemption is a provision in the Constitution itself.—The only question is, whether it impairs the obligation of contracts under the Constitution of the United States. We think it does not. Jacob *vs.* Smallwood, 63, N. C. R. This will be certified, &c. Judgment reversed.

READE, J.

Correspondence of the Journal.

Meeting of the Grand Lodge I. O. O. F. of North Carolina.

TARBORO' N. C., July 20, 1869.

The Grand Lodge I. O. O. F. of North Carolina convened at 3 o'clock this day in the Hall of Edgecombe Lodge No. 50, and was called to order by M. W. G. M. Caldwell.

Prayer by the Chaplain.

Upon the call of the roll the following officers were found to be present:

R. A. Caldwell, M. W. G. M.
O. W. Telfair, R. W. D. G. M.
J. C. Wood, " G. W.
J. W. Gulick, " G. S.
C. L. Parker, " G. T.
Rev. A. Paul Repiton, R. W. G. C.
W. H. Clark, Rep. G. L. U. S.
J. A. Williamson, G. Marshal.
J. W. Beasley, G. Conductor.
W. H. Willis, G. Guardian,

and a quorum of Representatives from the Subordinate Lodges.

The Grand Master and Grand Representatives submitted their annual reports, which were referred to appropriate committees.

The following standing committees were appointed:

ON THE STATE OF THE ORDER.—P. G. M. A. Paul Repiton, A. Barnes and W. J. Yopp.

ON SUPERVISION.—J. W. Beasley, J. F. Commault and R. F. Overman.

ON PETITIONS.—J. W. Beasley, M. A. Smith and J. H. White.

ON CONSTITUTION AND BY-LAWS.—C. L. Parker, C. E. Bennett and R. F. Overman.

ON RETURNS ON SUBORDINATE LODGES.—W. J. Yopp, R. J. Jones and A. Barnes.

ON CORRESPONDENCE.—J. A. Williamson, J. F. Ward and J. G. Elfaud.

ON SUBORDINATE LODGES RETURNS NOT REPRESENTED.—J. G. Elfaud, R. H. Rowe and W. L. Smith.

The Lodge then adjourned until to-morrow at 8 o'clock.

WEDNESDAY MORNING, July 21st, 8 o'CLOCK.

The Lodge met this morning. D. G. M. Telfair in the Chair.

Prayer by the G. Chaplain.

Most of the morning session was occupied with the reports of the several committees:

Rep. Yopp offered the following:

WHEREAS, A resolution was passed at a regular session of this Grand Lodge in 1856, fixing the aid of admission into this Order at 45 years; be it

Resolved, That said resolution be rescinded, and that this matter of admission to membership be left to local legislation.

After some discussion it was referred to a committee consisting of G. M. Caldwell and Reps. Yopp and Barnes, which committee, after a short time, made a report recommending its adoption, which was agreed to by the Lodge.

It was decided to hold the next session of this Grand Lodge on the 3d Tuesday in July, 1870, at Goldsboro', N. C.

The Lodge then adjourned until 3½ o'clock.

3½ o'CLOCK.

The Lodge met according to adjournment, D. G. M. Telfair in the Chair.

The time having arrived which had been set apart for the election of officers, the election was gone into with the following result:

W. L. Smith, Grand Master.
Dr. J. H. Baker, R. W. D. G. M.
A. Barnes, " G. W.
J. W. Gulick, " G. S.
D. Cogdell, " G. T.
Rev. A. Paul Repiton, R. W. G. Chaplain.
P. S. Wisnant, R. W. G. M.
R. A. Watson, " G. C.
John Taylor, " G. G.
D. D. G. M. 2d District, W. J. Yopp.

Installing officer Cape Fear Lodge, R. J. Jones.

Nothing else of importance transacted.

The Lodge closed to meet at 8½ o'clock to-morrow morning.

To-morrow morning the officers will be installed, the secret work of the Order gone through with, and the session will wind up with a big supper at night. Y.

WILMINGTON, July 21st.

The New Hanover County Medical Society met in the Special Court room at 8½ o'clock p. m. The minutes of the last meeting were read and approved.

After reports of the committees and the transactions of ordinary business, the subject of sweet quinine, which was touched at the last meeting, was brought up and considered at some length by the large number of physicians present. The experience of the physicians in the use of this new agent being somewhat limited, a decision as to its efficacy and potency in the treatment of disease has not yet been made.

Upon motion, a committee of three were appointed to prepare a memorial to be presented to the Board of Aldermen, urging in strong appeal to devise some means to improve the sanitary condition of certain portions of the city. The committee consists of Drs. King, Potter and Wood.

It now being the regular time for the reading of an essay, Dr. W. Geo. Thomas, the President, arose and read an able, original and truly practical essay on the Diarrhœa of Children. The thanks of the Society were tendered to Dr. T., and, upon motion, he was requested to furnish two copies of his essay, one to be filed in the archives of this Society and one to be sent up to the State Medical Society.

Dr. F. W. Potter was appointed to prepare an essay on "Malignant Diseases," to be read at the meeting in September next.

No further business being transacted, the Society adjour

THE WILMINGTON JOURNAL

WILMINGTON, N. C.

FRIDAY, JULY 30, 1869.

Wilmington, Charlotte and Rutherford Railroad.

"It is believed that a citizen of this place will be made President. For one, we trust it may be so. If a Radical is to be President, no better man in the party can be selected to press forward this great work."—Charlotte *Times*.

We desire to ask friend Waring if he refers in the above to Dr. William Sloan? If he does, will he tell us whether the Dr. was or was not implicated in stealing cotton from the State, in connection with Mr. A. J. Jones, while Treasurer of the State?

If he was, can there be "no better man in the party" selected to handle millions of dollars and control the destinies of a great work?

We pause for a reply.

The Homestead Exemption.

The following is the provision of the Constitution of this State, which has lately been decided by the Supreme Court not to be in conflict with the Constitution of the United States.

We have heretofore published the opinion of the Court, delivered by Justice READ. To-day we give the dissenting opinion of Chief Justice Pearson:

ART. X.—SEC. 1. The personal property of any resident of this State to the value of five hundred dollars, to be selected by such resident, shall be and is hereby exempted from sale under execution or other final process of any court issued for the collection of any debt.

SEC. 2. Every homestead and the dwelling and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, &c., shall be also exempted.

Building Association Taxes.

The Deputy Commissioner of Internal Revenue, in reply to a letter from the Assistant Assessor of Junction City, Kan., relative to the liability of a building association to special tax of the broker or auctioneer, whose President or Secretary, by virtue of the provision of the constitution and by-laws thereof sell at public auction the loans of the association, says: "No special tax, is in my opinion, imposed under the Internal Revenue law in respect to the specified business of selling at auction as is stated, the loans of the association. It is not, properly speaking, the money which is sold, but the use of the same."

New Party Movements.

Several weeks since, in reply to a correspondent, we took occasion to give our views at length upon the present aspect of party matters in North Carolina. We are glad to know that they have met with the hearty concurrence of the leading Conservative papers of the State, several of which republished the article, and some with editorial commendation. Since then there seems to be a restless disposition to rush headlong into the organization of a new party; to emulate the example of the Conservatives of Virginia. This is a matter for long and grave consideration, and we should "make haste slowly" in coming to any definite conclusion. There is no general election in this State until August, 1870, and there may be an illegal attempt, with success, even to postpone that one until August, 1872. The term of the members of the General Assembly most certainly expires in 1870, but we have seen too many assumptions of tyrannical power to be surprised if that body should vote themselves in office until August, 1872.

But presuming for the present, that the plain provisions of the Constitution shall be obeyed, it is seven or eight months yet before there will be any necessity for party organization. In the meantime it will be much better to withdraw the attention of our people from political excitements, and direct them to a consideration of subjects appertaining to their material welfare.—Favoring seasons throughout the greater portion of our State bid fair to crown the industry of the farmers with good crops. Immigration and agricultural societies are in operation, attempting to regulate the question of labor, to invite attention to and develop our agricultural and mineral resources, and encourage mechanical industry and ingenuity. Our people, industrious, peaceful, submitting with good grace to the inevitable condition of affairs, are honestly at work to build up their ruined fortunes and to meet the oppressive taxes of an extravagant and wicked administration. In fostering these objects the press of the State have a noble work before them. There is almost perfect accord among the intelligent and virtuous people of North Carolina in political matters, and when the proper time comes there will be no trouble in uniting the Conservative votes of the State upon a line of action which may then be dictated by principle, by wisdom and by good policy. But in the meantime, while the press stand as sentinels on the political watch-towers, let the people work out their material redemption in security and peace. The extravagances and criminalities of the party in power will become the rallying war cry for their opponents in the coming campaign.

Before North Carolina is called upon to take part in a political canvass, elections will be held in most of the leading Northern States, and Mississippi and Texas will have voted upon the adoption of their Constitutions. Who can foresee what may be the condition of political affairs in the Spring of 1870? The Fifteenth Amendment will ere then become a part of the Constitution of the United States, and *universal suffrage* will no longer be a question of party politics. Amnesty, taxation, duties, currency, tariffs, interest on the public debt, and even repudiation, will mark the dividing line between parties, and upon these, and others which may yet spring up, will the battle be joined. And they will be sufficiently exciting in their day, and to attempt at this time to draw our people into the exciting vortex of political discussion is both unwise and hurtful.

We ask, therefore, the press of the State to aid us in quieting political matters for the present. Assist us in directing attention to our agricultural, commercial and mechanical resources. Let us build up our lines of travel and trade.—Let us direct the attention of immigrants to the wealth of our soil and mines, the salubrity of our climate, and the peaceful, law-abiding disposition of our people.—Keep before them the short-comings and wickedness of our rulers, explain the oppressiveness of taxation, expose the extravagance and corruption of our officials. In a word, show an over-taxed, hard working people the necessities of a change in our government, and then submit the result to them. Our word for it there will be no trouble or dispute upon the name or the platform with which we will make the fight.

We are ready at all times to state our political principles and give the reasons for the "faith that is in us," but we submit that now is not the time for these discussions, nor do we believe there will be found much difference of opinion among our people. The oppressions and corruptions of Radicalism, our own and our country's necessities, and the amendments to the Constitution of the United States, are fast welding together in a compact mass all men who honestly and conscientiously oppose the wicked dynasty which now rules the country with a rod of iron.

A Proper Order.

Brevet Maj. Gen'l O. O. Howard, Commissioner of the Bureau of Refugees, Freedmen and Abandoned Lands, has given notice to railroads no longer to receive transportation orders issued by his Bureau. We believe this to be a good order, as we have no doubt our railroads have been greatly imposed upon by persons traveling on these transportation orders at reduced rates who should have paid full fare.—Hereafter we presume persons holding transportation issued by the Freedmen's Bureau, will be compelled to pay their fare.

The Chinese.

We publish this morning an extract of a letter from a California correspondent of the Cincinnati *Gazette* giving the characteristics and habits of the Chinese in the most favorable light. It is our wish to inform our people as thoroughly as possible in regard to these people, for we are satisfied that at no distant day much of the lands of the lower Cape Fear will be cultivated by the labor of Chinese.

Whether for good or evil, John Chinaman seems destined to settle the vexed questions of labor and politics in the South. It cannot be possible for capital long to employ labor which is not only not in sympathy with its interests, but is in open hostility. Our climate, our productions, and our untilled lands invite the Chinese, and whether we will or not, he is coming. We hope the picture presented in the letter given elsewhere is a truthful one. If it be, we need have no fear of an introduction to this singular people, which can only be postponed a few years. Industrious, peaceable, contented, and quick to learn, in giving satisfaction in the menial employments for which we require him, certainly our boasted civilization need have nothing to fear from his religion or habits. We can only trust that his coming will be for the general good, for come he will and must.

Mulatto Babies—Judge Reade.

Appended to the opinion of the Court delivered by Judge READE in the case of the State *vs.* Hairston, recently published in the *Standard*, we find the following:—"NOTE.—It is worthy of remark, and the fact indicates the moral improvement of both races, that since emancipation mulatto births have almost entirely ceased." It has been heretofore, we believe, more customary for the Reporters, than the Judges, to append notes to the opinions of the Court. Notwithstanding this, however, we do not hesitate to ascribe this "note" to His HONOR, for the reason that if it had been appended by Mr. PHILLIPS it would have had some law in it.

It is curious, too, if not profitable, to mark the change in the substance of notes to recent and early judicial opinions. On page 252 of first volume of PLOWDEN'S Reports, selected at random from a shelf full of Reports, we find the following "note" appended to the case of Willion *vs.* Berkley, decided in the fourth year of the reign of Queen Elizabeth.

"*Note in* M. 21 Ed. 3.45—*a* Formedon *was brought of lands given to the father and mother of the Demandant and to the heirs of their two bodies which were aliened before the Statute* de donis conditionalibus. *And* THORPE *said that the Demandant could not have a* Cui in vita *but where he can make title in his writ* quæ clamat esse jus hæreditatem suam, *which he cannot do unless he claims a fee simple. And it seems by him that the Heir cannot have a writ* quæ clamat tenere sibi et hæredibus de corpore sus exeuntibus, *which agrees with the opinion of* A. BROWN ante fa 246, *and with the said book in* 4 Ed. 2."

The reader will easily see the difference between what "THORPE said" and what READE said. We venture to say there are not more than three Judges, to-wit: PEARSON and RODMAN, of the Supreme Court, and MITCHELL, of the Superior Court, who understand or can now explain what "THORPE said." If we are in error, we hope Chief Justice PEARSON will correct us and give us the names of the Judges whose legal lore we underrate. Everybody understands what READE said. We do not think the change is for the better, or that "keeping pace with the progress of the age" has been productive of good results. As a general rule we think the cobbler ought to stick to his last, the farmer to his fields, the Judge to the law and leave to Doctors and census-takers to report upon the number and color of babies. We feel sure, that for his life, THORPE could not have told whether babies in his vicinage were on the increase or not. We venture to say his head and his heart were both too full of law to think or know much about babies. We feel sure that had his head been running upon babies, there would have been less law in it. Out of the fullness of the heart the mouth speaketh.

But is it a fact that "since emancipation mulatto births have almost entirely ceased"? If it be a fact, which, indeed, we neither deny or affirm, we desire to know how it has been ascertained. So far as we know there has been no census taken in the State since emancipation; nor is there any organization of midwives capable of furnishing information upon the subject. We are not aware of any newspaper publication upon which, in accordance with the decision in the late Contempt case, the Court would be authorized to act. It is true the Court is presumed to know somethings, but whether a baby is black or white, or mixed, is, we think, not one of those things which the Court is presumed to know "judicially." That His HONOR has devoted his personal attention to the investigation of this matter, to a "trial by inspection," as it were, in legal language would scarcely be "decent to suppose."—But admitting that His HONOR is correct in saying that "since emancipation mulatto births have almost entirely ceased," does it follow that "the fact indicates the moral improvement of both races?" We submit that before His HONOR can legitimately draw this conclusion he must show that the crime of procuring an abortion is not of more frequent occurrence than formerly, and further, that while the number of mulatto births is smaller, the number of illegitimate births, both black and white, is not larger; in other and plain words, that the crime of fornication and adultery has occurred less frequently since emancipation. We think there is no evidence to show this. We think there is evidence to say that never before in North Carolina has lewdness been so common or profligacy so brazen among those from whom, because of their official stations, the people have a right to expect decency of deportment in public, if not virtuous conduct in private.

We deeply regret this attempt of Judge READE to give the sanction of the Court to a statement, the truth of which he could have only surmised. We regret it none the less because it imposes upon us the disagreeable necessity of speaking in a manner incompatible with that deference and respect for the Judiciary of our State we so earnestly desire to cherish and inculcate. The act of Judge READE, however, in traveling out of the record to make a statement reflecting upon the morality of our people in the past, and thereby to give color to the false charges so frequently urged against them by the Radicals and fanatics of the North as to constitute the main staple of their party slang, is of such an undisguised partisan character, that we cannot allow it to pass unnoticed, consistently with our duty as public journalists.

Navassa Guano Company of Wilmington.

Under the above name, a Company is now forming in our city for the purpose of manufacturing Superphosphates. A similar effort was undertaken a year or two since, and the stock taken, but was subsequently abandoned on account of the impoverished condition of the people, the failure of the growing crops and the low price which all farm productions were bringing. Under more favorable auspices the effort is again renewed, and with the best assurances of success.

It is proposed to raise a joint stock company of twelve hundred shares of one hundred dollars each. This amount is believed to be amply sufficient to purchase a site, erect the necessary buildings, purchase the machinery and materials and place the company upon a firm footing. It is intended to erect extensive works at Hilton, near this city, where a site has already been selected.

Two-thirds or three-fourths of the stock has already been taken, much of it by leading business men and farmers of this city and section. Mr. J. Eli Gregg, General Evans and other leading planters of Mars' Bluff, South Carolina, have alone subscribed to one hundred shares of the capital stock. The leading planters of Edgecombe have subscribed liberally. The management of the Company will be in the hands of gentlemen well known in this community and whose names will assure the planters of an article of reliable quality.

We understand that the basis of the Fertilizer or Superphosphate to be manufactured by this Company will be the celebrated Navassa Guano, from which the favorite superphosphates now used by our planters are manufactured. The Guano will be brought from Navassa Island, West Indies, direct to this port, and the Company will make their own chemicals, necessary in the manufacture of the Fertilizer.

We hardly deem it necessary to urge upon our people the value of the establishment of such a Company in our midst. All successfully operated business enterprises not only accumulate large capital, but give an impetus to business and provide employment to large numbers of laborers, and more than all, keep at home a large portion of the money expended by our people for the articles manufactured. The purchase of Fertilizers has grown into vast magnitude, and it increases with each year. The experience of the world is that, when judiciously exercised, the use of Superphosphates upon land is the best investment which farmers can make. In consequence the demand for the various articles manufactured is only limited by the supply. This new Company will, therefore, at the outset, find ready sale for every ton of Superphosphate which it will be able to manufacture, however extensive may be its operations.

There are some advantages of the location here which are superior to most any other locality, and which cannot fail to strike every one. We have here a very extensive lumber trade with the West Indies. Our freights hence are very light and consequently require a large amount of tonnage. The difficulty which vessels find in obtaining return freights, has been a serious obstacle to this trade. It is the exception when returning vessels can find sugar, molasses, or even fruit to bring to Wilmington, but they are generally compelled to load for New York, and thence to this port. Consequently in furnishing freight to Wilmington, this Company will not only do much for the commerce of the place, but will be enabled to procure it at rates not more than one-half of those paid by similar companies in New York and Baltimore.

In the second place, Wilmington is much nearer the centre of the section in which Fertilizers are generally used than are the cities from which it is now transported. There will be less delay in its reception and it will cost less when received. The site at Hilton is peculiarly favorably situated for manufacturing purposes. It is at this point that the gauge of Northern and Southern railroads change. The cars of the Wilmington and Weldon Railroad can be loaded at the very doors of the company and without change can be delivered to any part of North Carolina and Virginia, and the early completion of the Wilmington, Charlotte and Rutherford Railroad, with the same gauge, will give a more direct route to Western North Carolina. On the other hand, the cars of the Wilmington and Manchester Railroad, loaded also at the Factory, can deliver without change the Superphosphates at any depot in South Carolina, Georgia, Alabama and other States. This is an advantage which cannot be too highly appreciated, and which will add greatly to the facilities and success of this enterprise.

With its superiority of location, abundant and cheap freight for the Navassa Guano, the manufactnre of its own chemicals, skillful and experienced men in charge of its operations, and an unlimited demand for its Superphosphates, there is nothing to prevent this Company from being most successful.

It is desired that the capital stock should all be taken in a very short time, as it is the intention to go immediately to work erecting the necessary buildings, so that the Company can prepare a good supply of its Fertilizers for next years crops. For this purpose lists of subscription have been left at the following places, to-wit: First National Bank, J. G. Burr & Co., Cronly & Morris, E. Murray & Co., F. W. Kerchner, Wright & Stedman, Journal Office. We would certainly urge our friends to advise themselves in regard to the matter, for it must impress all most favorably, both as a business enterprise and as an investment.

Wilmington, Charlotte and Rutherford Railroad.

In commending Dr. William Sloan for the Presidency of the Wilmington, Charlotte and Rutherford Railroad, the Charlotte *Democrat* says: "The headquarters of the road have been at Wilmington (the extreme end) since its first organization, and no one can rightfully complain if they are now transferred to Charlotte, a central point on the line."

We were given to understand, at the time that Mayor Neff and Alderman French telegraphed to Governor Holden, basing the vote of the Wilmington stock in favor of the amendment to the Charter upon the condition that the headquarters of the road should not be moved from this city. Wilmington held the balance of power in that meeting, and we supposed that our city authorities obtained the assurance of Governor Holden or Dr. Sloan that such removal would not take place. If the headquarters are moved, and by the vote of Wilmington, these officials were untrue to the interests of the city, at a time when they had it in their power to control this matter.

Elopement of a Long Island Heiress with her Father's Coachman.

About six months ago a man named Corson, learning that Mr. Jackson, of Glen Cove, needed a coachman, presented himself at the gentleman's door. John was soon installed. He was greatly liked by all the family, but most of all by one of the daughters, about twenty-two years of age, who by degrees came to look upon him with ardent affection. Corson, on his side had fallen deeply in love with the young woman, and they soon came to a secret understanding, which culminated on Saturday in their secret marriage in the Episcopal church in the village.

They returned home and assumed their daily duties as though nothing had happened, until Tuesday last, when they departed with all their personal property to some region where parents cannot annoy them. All efforts to discover their whereabouts have so far proven futile. Mrs. Corson that is, is said to be an heiress in her own right, having inherited a large fortune by the death of a relative and, as she is beyond the age of parental interference, her lucky husband may snap his fingers at the old folks.

New York *Sun*, 23*rd*.

Remedy for Black Rot.

R. Blanchard, Lyndonville, cures the black knot on plum trees in this way:—Take a paint brush, dip it in spirits of turpentine, and thoroughly saturate the knot, being careful not to touch the tree except in the diseased part. It stops the knot and the tree puts out healthy branches below it. I am careful to burn all branches removed in pruning. As the summer is the time the mischief is done, every fresh excrescence should be pared off and the turpentine applied, and it will harden in a week.

Important to Farmers.

Tar may be applied to hard, dry and cracked hoofs with good success. It appears to penetrate and soften the hoof, and gives it a bright and clean look; also closes the cracks. Would apply once or twice a month.

LAWSON COUNCIL No. 31, F. OF T.,
LUMBERTON, N. C., July 27, 1869.

WHEREAS, It has pleased Almighty God, in the intricate workings of a divine providence, the intents whereof are by man unfathomable, to remove from among us, in the prime of a life of usefulness, brother John L. Quince, a member of this Council. And

WHEREAS, While yielding in all due submission and humility to the decree of Him who is Lord alike of life and death, it still behooves us to testify our appreciation of the great worth of our deceased brother. Therefore, be it

Resolved, That in the death of John L. Quince this Council has lost one of its most zealous and truest friends, as well as one of its most esteemed members.

Resolved. That we, in common with the numerous friends of the deceased, who were attached to him by his diligent practice through life, of all those virtues which serve to ennoble the character of man do mourn his early death, feeling that this Council has lost one of its worthiest members. A man not less noted for his enterprise than his liberality, for his business talent than his private virtue.

Resolved, That we tender to the family of the deceased our deepest sympathy, knowing that their loss is indeed irreparable.

Resolved, That these resolutions be inscribed upon the Secretary's book of this Council, and that opposite thereto a blank page be left upon which shall be written the name of the deceased, with his age and the date of his death.

Resolved, That we in token of our respect for the memory of the deceased, will wear our badges of mourning for the space of thirty days.

Resolved, That a copy of these resolutions be sent to the family of the deceased, and a copy to the Daily Wilmington Journal, Morning Star, published in the city of Wilmington, and to the Friend of Temperance, published in the city of Raleigh, for publication.

FRENCH MCQUEEN,
GILES LEITCH,
W. A. DICK,
Committee.

Mr. Fred. Appelbaum, a disappointed lover, committed suicide by hanging himself near St. Louis on Friday of last week.

For the Journal.

"Pencilings by the Way."

"Jordan is a hard road to travel"—yet not harder than the meandering to and back from Smithville. Still, if you are on the alert, you may find the way to the village by the sea. What a pity—shame is the word—that there is no reliable conveyance to this charming ocean-washed town. What are our task-masters doing that they—the aforesaid carpet-baggers—have not built a hotel and established a daily communication to Smithville. This "by the way."

Having occasion to go to Smithville, the kindness of Capt. Harper, of the swift and powerful Oldham, furnished us the opportunity. Nothing of note occurred until some two or three miles had been made. All at once—"Man overboard!!" startled every one! Sure enough there was! In the middle of the hawser, that connected the tug with the brig she towed, was a negro clinging for life. How he got there was the mystery. But there was the negro—hatless—shirtless—possibly trowerless! All was consternation! The first thought was to save the life of a human being. The tug was "shut down." This put the negro's head under water, by the slacking of the hawser. "Go on"—was shouted from the deck! The rope was tightened and Mr. Negro popped above the water, whirling over and over the hawser, with all the agility of an acrobat. Still the darkey held on and snorted. He even had the temerity to let go one hand and wipe his face! He is a "dead nigger," certain, every one thought. But no.—Grim death and the "man and brother" were not to shake hands yet. But the way to cheat death of his own was not yet at hand. The thing would have been laughable had it not been so serious. He was still in the middle of the hawser! After a seeming age—some ten minutes—the boat from the brig reached the frightened humanity and he crawled in, more scared than drowned. It was afterwards learned that he had made arrangements with some of his sable brethren, on the brig, to have a tow; and the fool attempted to paddle his canoe between the tug and brig for that purpose. When the writer last saw him he was dressed up in sailor clothes, a wiser (possibly!) if not a better negro!

We reached Smithville in safety and in good time—for just as the land was touched—ting-a-ling—ting-a-ling—ting-a-ling sounded the dinner bell of the hospitable Mrs. Stewart. After a most welcome greeting from the good hostess and her interesting family, we sat down—but had, most remarkably, *lost our appetite!* Yes, lost our *own*, and had got some ravenous animal's! Gracious! how the viands disappeared! The good hostess opened her eyes—we opened our month!

Now just let it be said to the sweltering-melting citizens of Wilmington—go to Smithville, and when you get there, go to Mrs. Stewart's. There you will find everything desirable for the weary sojourner. Good living—good attention—quiet—good bed-rooms, and all clean as a new pin! And lastly, the charming sea-breeze to fan you to sleep, as it did the writer. M.

NOMINATIONS IN CASWELL TOWNSHIP.—The good citizens of Caswell township, who are not specially interested one way or the other in the progressing Legislative contest, met recently and nominated the following ticket for township officers, on which will be found the names of some of the best citizens of the township.

Justices—Dr. Jas. F. Simpson, George Corbett.

Clerk of Township—Jas. Thompson.

Constable—C. Z. Costin.

School Committee—B. F. Keith, T. O. Larkins (colored), Jno. Newkirk (colored).

Another meeting was held Monday, which was addressed by Galloway and other speakers in the interest of Eagles, and the following ticket nominated, which embraces, as will be seen, some of the names contained in the above ticket:

Justices—Jas. F. Simpson, Henry Hall (colored).

Clerk of Township—Jas. Thompson.

Constable—C. Z. Costin.

School Committee—Tully Orr, T. O. Larkins (colored), Richard Lewis (colored).

We are led to hope by these nominations that our Caswell friends will do better than some of their neighbors in the election of township officers.

HOLDEN TOWNSHIP.—At a meeting of the citizens of Holden township, irrespective of party or color, at Rocky Point depot yesterday, the following nominations for township officers were made:

Justices—Maj. J. S. Hines, James Hill (colored).

Clerk of Township—Robert Bloodworth.

Constable—Isaac H. Brown.

School Committee—Joseph Davis, John Lillington, James McGuire (all colored).

Dailg Journal 29*th*.

FINE POTATOES.—Mr. D. P. Shaw has laid upon our table beautiful specimens of the pink eye pototoes raised upon his place at Horse Shoe, Bladen county. They are fine, healthy and large, yielding, Mr. Shaw informs us, over ten barrels to the acre.

STILL HEADING CAPT. TYLER.—We learn that His Excellency, Governor Holden, sued out an injunction before Judge Watts last night to keep Cebe from interfering in the stockholders' meeting of the W., C. & R. R. R. Company, to come off in Wilmington on the 29th. Poor Cebe! The Governor is hedging him in on every side.

Raleigh *Sentinel*.

IN ERROR AGAIN.—The Sentinel's "learning" leads it astray again. An injunction was sued out by a stockholder in the W., C. & R. R. R. Company to restrain C. L. Harris, Superintendent of Public Works, from interference in the stockholders' meeting at Wilmington on the 29th inst. The statement that His Excellency Gov. Holden sued out the injunction was erroneous.—Raleigh *Standard*.

ARRIVAL OF IMMIGRANTS.—The Norfolk papers chronicle the arrival there on Saturday of a number of immigrants of both sexes, from the interior of Germany, bound for Western North Carolina. They landed in Norfolk from the New York steamer.

The language of nature and experience demonstrates that whoever would enjoy the pleasures of food, the beauties of landscape, *the joys of companionship*, the riches of literature, or the honors of station and renown, *must preserve their health*. The effect of foul, injurious food, entering the stomach, is to derange the digestive organs and produce headache, loss of appetite, unrefreshing sleep, low spirits, feverish burnings, etc., which are the symptoms of that horrid disease, *Dyspepsia*, which assumes a thousand shapes, and points toward a miserable life and premature decay. PLANTATION BITTERS will prevent, overcome and counteract all of these effects. They act with unerring power, and are taken with the pleasure of a beverage.

THE PRICE-LARKINS FACTION HOLD A HIGH FESTIVAL IN THE THEATRE.—Last night brought with it another of the now frequent political demonstrations in the Republican family quarrel. A big meeting of the Price-Larkins faction was held in the Theatre, at which many of our white citizens were present, attracted by curiosity.

After quite a long time spent in drumming around the streets, the Marshals and others resorted to Camp Lamb, from whence the procession was to start—they must have been late in mustering forces, for it did not appear in the vicinity of the Theatre until nearly 10 o'clock. But it finally came, headed by about 24 marshals on horseback, and with but little demonstration on foot. The transparencies destroyed at the recent fire were replaced by very badly executed banners, displaying in their inscriptions the feeling of dire opposition which exists. We quote some of these inscriptions:—"American Citizens do not speak *French*;" "The Black Eagle will never see Raleigh through Gee Zee's glasses;" "French Eagles don't live in our country;" "Our Miller will grind the clique to powder;" "Gee Zee's Prayer—Don't take my Gall-away." [A figure representing Larkins is seen crying "no roosting place here."] Another exhibited French's inflated hat with a hand pointed upwards as the hat rises in air marked with the words, "gone up." Another exhibited an eagle being well shaken on a cloth by two figures representing Arnold and French with the written explanation, "A French Eagle passing through a Bolting machine." Still another represented French driving a cart marked "Night Soil Post" from the "Sunny South" following in the wake of Abbott for the "cold North" crying "come along." And yet another represented Larkins walking into the Capitol with Eagles flying slowly behind burdened with carpet-bags marked Grady, Servoss, Rutherford, Abbott, Arnold and Schenck, and crying out, "Oh! Solon, you took the right road. I would be better off if these infernal carpet-bags didn't keep me back." But the best of all was a little dog marked Abbott smelling after a big dog (a certain Western Senator) with a figure representing Sprague pointing a pistol at him.

After the procession had gotten fairly into the building Owen Dove (colored) was called on to preside over the meeting.—Rigged in his best Sunday suit, Owen came forward evidently embarrassed and very hoarse. Winking his eyes with the rapidity of lighting, he said? "Gemmen and my feller-citizens. You sees I'm very hoarse—ahem!—and konsequintly can't say much, for I seed so much to holler for to-night that I did sum of the shoutin' too. You must scuse me for I'se very hoarse, and derefore I'se hopes what I fails in to-night you'll scuse me and listen at the other speakers who's to speak to you, and I has the pleasure of introducing Mr. Miller."

The "point of order" man then came forward, but was not very enthusiastic.—He killed his effort on the start (but his "feller-citizens" didn't know it) by attempting to correct quotations used by the other side and most abominably murdering the very quotations in essaying to repeat them in his very effort to correct others—shakespeare, etc., didn't stand a showing; but he said the other side had brought out their big guns against the little popguns of his side, and they had their cherries ready and if they couldn't fight as a bull-dog they would bark as a fice.—Eagles hadn't a bit more intelligence than he (Miller) had and he (Miller) could follow a plow handle much better than he could make laws. Being called to time Miller then took his seat for Price to speak.

At this juncture Arnold appeared on the stage to hush the cries for "Eagles," which were being made by some of his friends, and, as friends, appealed to them to keep order and treat the meeting with respect.

Price then came forward with a huge manuscript package to take off the redoubtable Senator from New Hampshire, which he called notes and continually forgot to refer to. In this speech Price failed to show himself to advantage, but was still persistent in showing up the "damnable clique" as he calls it. He made pretty much the same speech we have ever heard him make; accepted of the challenge of the Senator of the clique, and promised to meet him in discussion anywhere; and disavowed any intention of being personal in the midst of bitter personalities. After listening to his long-winded speech with ill-concealed impatience for more than an hour, we left him still speaking, in despair, thinking that he would never finish, and thus made our exit from the meeting. What happened afterwards we did not take the trouble to inquire, but believe that Larkins didn't appear.—*Daily Journal* 28*th*.

PUBLIC ADMINISTRATOR APPOINTED.—This morning J. N. Bunting, Probate Judge, tendered the office of Public Administrator for Wake county to S. D. Harrison, Esq., a merchant of our city, who accepts the same, and gave his bond and entered upon the duties of his office.—Ral. *Sentinel*.

TROOPS COMING.—We understand that Company B, 8th regiment U. S. troops will leave Goldsborough for Raleigh on Wednesday next.—Ral. *Sent*.

DEATH OF A PROMINENT CITIZEN OF BEAUFORT.—We regret to learn that Benjamin L. Perry, Esq., died at his residence in Beaufort yesterday morning. Mr. Perry was a prominent, influential and useful citizen, highly respected and esteemed.

Newbern *Jour. of Com*.

THE STATE CREDIT.—It is quite a mystery why the Standard is so jubilant over the little $3,000,000 thrown overboard by the late decision of the Supreme Court; and why it glorificates that our State debt is now only $35,000,000. Only thirty-five million dollars! Widows and orphans! young men and maidens! especially taxpayers, think of it.

Only thirty-five million dollars! But it is really more, as can be shown; while it is almost mathematically demonstrable that the tax levied this year, heavy as it is, will barely pay the interest on the old State debt and meet the current expenses of the State government, and the January and July interest on the State debt, with slight exception, yet unpaid.

Ral. *Sentinel*.

The Homestead.

Dissenting Opinion of Chief Justice Pearson upon the Constitutionality of the Homestead Exemption.

The express prohibition of "ex post facto laws" is confined to criminal offences, but the broad principle of justice on which it rests extends as well to civil rights, and it is a settled rule of construction that a retroactive effect is never to be given to a law, unless the words used admit of no other meaning, and show beyond question that past transactions are within its operation. "General and vague words have never been allowed to have that effect." Broom's legal maxims—41.

In our case the words in the Constitution are shall be exempt from sale under execution "for any debt." Very comprehensive, but at the same time very indefinite. The statutes carrying out this ordinance adopt the same words without explanation; giving to them the meaning of "any debt" hereafter contracted there is no injustice, for people will know who is to be trusted: giving to them the meaning of any debt, as well debts heretofore as debts hereafter contracted, there is gross injustice, and a violation not only of the ordinary notions of honesty, but of a fixed principle of the common law reaffirmed by statute law, 13 Elizabeth, "All gifts and voluntary conveyances of his property by a debtor are void as against existing creditors," on the ground of *fraud*. I hesitate to give to these indefinite words a construction which imputes to the law makers a fraud in this; it makes a gift of voluntary conveyance to the debtor himself, in fraud of existing creditors, of property, on the which he received credit, and of which he cannot by law make a voluntary conveyance to another. Courts are to be governed not by what the draftsman of a law is supposed to have meant, but by what the words used mean according to the settled rules of construction. This maxim should especially be adhered to, when the law is submitted to a vote of the people, for it is not decent to suppose that indefinite words were used that some might vote for it giving one meaning and others another.

II. "No State shall pass any law impairing the obligation of contracts." These comprehensive words are not confined to a prohibition against altering the terms of a contract, but, also forbid impairing its obligation. What is the obligation of a contract? The means of compelling performance, according to the laws in force, at the time the contract is made; by these laws the parties agree to abide; by these laws their rights are fixed. This is the obligation which must not be impaired by a State, whether acting in Convention or in General Assembly.

We are told: "There are now and so there will continue to be, laws to enable each party to enforce the contract, and after such assurance, if the State abolish or seriously change the remedy, it would be in violation of the Constitution of the United States and therefore void."

In this I fully concur, and the question is, not confusing the subject with a multitude of cases or with many words: does or does not the "Homestead exemption" of $500, personal property and $1000 value of land, injuriously change the remedy and alter the laws in force at the time the contract was made? In other words, is not the *obligation* of this contract impaired by the Homestead exemption? It is set out in the record, that besides the property exempted, this debtor has nothing. So the contract cannot be enforced, and its obligation is *destroyed*, not simply impaired.

It is said, "the remedy is not at all changed, for the creditor can take judgment and issue a writ of *fieri facias*, just as he could have done when the contract was made." All this is very true, and it is equally true, that in nine cases of ten the Sheriff will return on the *fieri facias* "nothing found exempt property exempted by homestead law." This is the shadow, but not the substance. The creditor trusted to the property which the debtor had, at the time of the contract, as the means of enforcing it, and to the law by which a voluntary conveyance is decared fraudulent and void—that was the obligation, the thing that binds—and yet it is held, as I think, under the unconscious bias of pressing circumstances, that a law which bestows this property on the debtor to the injury of existing creditors does not impair the obligation on contracts.

It was urged on the argument: By the common law, wearing apparel, arms for muster, tools of a tradesman and a bed and furniture are exempted; (and these articles were not looked to and were not included in the obligation,) then, by Statute, certain other articles, i. e., Bible, hymn book, and school books, and finally a horse, not to exceed in all the value of $200, were exempted. Now, because creditors did not choose to make a point about these small matters, that is relied on as fixing the power of the General Assembly to make exemptions against existing debts, and the power being thus established the extent or its exercise is a matter of legislative discretion. "Give an inch and take an ell." First, assume the power to exempt a Bible, hymn book and school books, then a horse may be added, then $200 worth of property, then $500, then $1,500 including land, then $5,000, and then exempt everything, for there is no limit, save Legislative discretion. Indeed, the Statue under consideration, I believe, exempts everything owned by debtors in nine cases out of ten.

In reply to the argument drawn from Legislative sanction, one fact counterbalances the whole. In 1822, the Legislature deemed it wise to modify the law of imprisonment for debt as an obligation of contracts. After full discussion the act provides: "Any person arrested under a *capias ad satisfaciendum* for any debt contracted after the 1st day of May next, may give bond to appear, &c.," and shall not be confined to jail, as before.

I am aware that in serveral of the States decisions have been made sustaining homestead laws. These cases all rest on the fallacy of assuming the power to make exemptions, to some extent, and then on the idea of Legislative discretion, the amount is swelled up to thousands; and it is justified on the ground of "keeping pace with the progress of the age," a progress in this particular, I fear, of dishonesty and fraud. I choose to rely on the cases in our own Court. Jones vs. Crittenden, 1 Car. Law rep. 385. Barnes vs. Barnes 8 Jones 366.

TOWNSHIP NOMINATIONS.—At the meeting of the City Executive Committee of the Price-Larkins faction of the Republican party last night the following nominations for officers of Wilmington township were made:

Justices—City at large, Geo. R. French, Jas. H. Chadbourn; first ward, Jacob Wise (colored); second ward, Jas. Lowrey (colored); third ward, Jno. G. Bulcken; fourth ward, Henry Jones (colored).

Clerk of Township—G. Washington Green (colored).

Constable—Wm. H. Moore (colored)

DeGraffenreid, who killed young McJanock at Franklin, Tennessee, not long since, was captured by a constable at Centreville, Hickman county, on Thursday last.

STATE NEWS

CROP PROSPECT.—A friend, remitting his ubscription, from Edgecombe county, ays, "the cotton and corn prospect in dgecombe is brilliant at this time, and etter than it has been since the war.—he hog crop is also improving, and there , I am pleased to say, less thieving going n."—Raleigh *Sentinel.*

WHAT A WHOPPER!—A friend informs s that the report is being industriously rculated through Franklin county, by the adicals, that a number of prominent gen. emen of Wake, including Judge Fowle, r. Badger, the Messrs. Battle, and many thers, had come out openly for the Radi- l party and were warmly advocating the ection of Hawkins to the Senate.

We see most of the gentlemen whose ames are given in the rumor almost every ay, but have discovered no signs of this ondrous metamorphosis in their political atus, and we think we can confidently y there is no foundation in fact for the mor in regard to any man of prominence respectability in Raleigh or Wake ounty.—Raleigh *Sentinel.*

COMMITTED.—A preliminary examination to the military murder case was had be- re Mayor Harrison late yesterday after- oon, by which it appeared on the testimo- y of some of the company, that W. S. alker, an ex-federal soldier, was the man ho stabbed Putney, and that Wm. Bell, a tive of this city, stabbed Moss. Walker as committed for trial without bail, and ell was allowed to give bail in the sum of ,000, in default of which he too was also mmitted to jail. We understand that alker intends testing the matter, wheth- his is a case to be tried by the civil or ilitary power—by a court civil or a court artial.

Moss' condition was represented as quite ritical.

ATTACKED BY NEGROES.—As Mr. William riffis was returning home from Raleigh, st Tuesday, he was beset by six negro en near Walnut Creek, south of the city, ho at first asked to be allowed to ride in s wagon. On being told they could not o so, they swore they would and moved if to get in. Mr. Griffis drove off, when ey commenced throwing stones at him, hich they continued to do as they could me in reach of him, until he reached ook's lane, beyond the Creek. Mr. riffis had no arms with him, which is ry much to be regretted.—Ral. *Sentinel.*

THE STATE CREDIT.—The recent action f the Supreme Court in relation to ap- ropriations for railroad purposes, has had fine effect on the State credit.—he debt of the State, old and new, is ot more than thirty-five millions of dol- rs. The whole of this debt has been ronounced good by the Court, and the ecision necessarily prevents any further ebt, except as the result of the approval y the people at the ballot-box of pro- osed appropriations. It is, therefore, easonable to presume that the debt will ot be increased.

We learn that the Trustees of the Uni- ersity, all the Superior Court Judges be- g present, resolved at a recent meeting o invest $125,000, the proceeds of the gricultural Land Scrip, in North Caro- na bonds. State bonds are going up, nd will no doubt soon range from 65 to 0.—Ral. *Standard.*

STATE OF NORTH CAROLINA,
TREASURY DEPARTMENT,
Raleigh, July 22d, 1869.

o the Chairman of the Board of Commissioners of the County of ———

SIR:—The Supreme Court of the State has de- ded in the case of the University Railroad Com- any vs. the Government and Treasurer, that pecial taxes levied to pay interest on bonds au- orized to be issued for the purpose of building ilroads, which were not begun and unfinished the time of the adoption of the Constitution, re unconstitutional.

After consulting with the council of State and he Attorney General, in view of said decision, e are advised that the principle of the decision ndoubtedly the following railroads viz: The niversity Railroad, the Eastern and Western ilroads, the Edenton and Suffolk Railroad.

By Section 20 of "An act to provide for the col- ction of taxes by the State and by the several ounties of the State, on property, polls and in- ome," ratified March 13, 1869, the Commission- rs of the Counties have power to revise tax lists, here excessive taxes are imposed. We there- re advise you to amend the tax lists of your ounty by striking therefrom the special taxes pronounced void by the above mentioned de- ision.

For the above Roads the taxes on the real and ersonal property of the State are as follows:

University Railroad, one-hundredth of one per ent.

Eastern and Western Railroad, one-twentieth f one per cent.

Edenton and Suffolk Railroad, one fortieth of ne per cent.

Aggregate, seventeen-two hundredths of one er cent, or 8½ cents on the $100 value.

We think it best that this per centage should e deducted from the special taxes.

Under Section 19 of the aforesaid act it is the uty of the Commissioners to make all calcula- ons necessary for ascertaining the amount of axes due by each tax payer. We think it best, herefore, that the Commissioners shall make the orrection above indicated. By employing sever- l Clerks, which is no doubt best, this work can e done so speedily as to involve only a few days elay. The corrections can be entered on the ists in any convenient blank column.

After all the corrections have been made the lerk of the Board of Commissioners must for- ard to the Auditor an amended abstract show- ng the taxes general and special due by the County to the Public Treasury.

In carrying into effect the foregoing recom- endation it is not at all necessary that there hall be any delay in the collection of taxes.

The Sheriffs will be held rigidly to the account- ability prescribed by law.

Very respectfully,
D. A. JENKINS,
Public Treasurer.
H. ADAMS, Auditor.
Ral. *Sentinel.*

ELECTION OF PRESIDENT OF A RAILROAD.—*Greensboro', N. C.*, July 24, 1869.—At a meeting of the stockholders of the Greens- boro' and Cheraw Railroad Company, held at this place last night, Colonel Louis Zimmer, Southern Agent for the Baltimore and Ohio Railroad, was unanimously elected President.—Richmond *Dispatch.*

A NEW PHASE OF AFFAIRS—A QUESTION FOR THE LAWYERS.—The Greensboro' Register rises to a point of order, viz: that there can be no election of township officers this Summer. He states his point of order thus:

By the Act of April 12th, 1869, an election is ordered for township officers on the first Thurs- day in August of the present year.

The Constitution provides that each voter shall be registered.

There has been no township registration.

The former registration and voting districts are very different from the present townships.

The Constitution says (Art. VI, Sec. 2,) that the General Assembly (not County Boards of Commissioners) shall order registrations.

The General Assembly has ordered no such registration.

The Register of Deeds is required to furnish to Judges of election, in all elections after the 20th November, 1868, with registry books of their respective precincts, (or as in this case, town- ships).

The Register of Deeds has no such registration books to furnish.

The "Act concerning townships" says that all elections *must* be held "in all respects under the rules and regulations prescribed by law."

These rules and regulations are contained in the Acts of the special session of 1868.

These Acts make no rules or regulations appli- cable to this election.

Therefore, there can be no election of town- ship officers this Summer.

The question is left to "the Chair" to decide,

RAILROAD MEETING.

MEETING OF THE STOCKHOLDERS OF THE WILMINGTON, CHARLOTTE & RUTHERFORD RAILROAD COMPANY.—The stockholders met in Masonic Hall yesterday morning at 10 o'clock, there being quite a full attendance.

Colonel Walter L. Steele was called to the Chair, and Messrs. M. Cronly and I T. Alderman ap- pointed Secretaries.

On motion Messrs. B. S. Guion and M. Cronly were appointed a committee to verify proxies and ascertain the amount of stock represented.

After investigation this committee reported the following reprerentation:

In person	5,581 shares.
By proxy,	9,305 "
Total,	14,886 "

A majority of the capital stock being thus rep- resented the meeting was declared duly organ- ized for business.

The counties of Richmond and Rutherford not having paid up subscriptions to stock, and pos- sessing no certificates, and the persons to whom the proxy was delegated not being stockholders, their proxies were rejected.

Mr. G. Z. French offered the following resolu- tions in relation to the Superintendent of Public Works.

WHEREAS, It is represented to this meeting that His Excellency, W. W. Holden, Governor of this State, claims the right to take charge of and represent the interests of the State in this Com- pany, and to appoint Directors on the part of the State; and whereas it is provided by law that C. L. Harris, Esq., Superintendent of Public Works, shall have charge of the State's interest in all railroads, canals and other works of internal im- provement, and vote in behalf of the State at all elections and in general meetings of such corpo- rations; be it

Resolved, That the Stockholders do hereby de- clare that they recognize C. L. Harris, Superin- tendent of Public Works, as the true and lawful agent of the State, and that he is invested by the act of its General Assembly with the power to represent the State's stock in this Company, to appoint the Directors in behalf of the State, and to have full and complete control of the stock held by the State of North Carolina in this Com- pany.

Resolved, That so much of an act of the Gen- eral Assembly, entitled "an act defining the duties of State officers," ratified 12th day of April, 1869, as provides that the Superintendent of Public Works shall have charge of the State's interest in all railroads, canals and other in- ternal improvements, and vote in behalf of the State at all elections and general meetings of such corporations, be, and is hereby, approved by the Stockholders, and is hereby declared to be accepted as an amendment to the charter of this Company.

Mr. French stated that as there seemed to be an evident intention to transfer the headquarters of the Company to Charlotte, to the detriment of the commercial interests of Wilmington, he in- troduced these resolutions in opposition to that proposed plan

Hon. S. J. Person thought the resolutions just offered were permature. He recited the pro- visions of the charter and recent amendment, and alluded to the condition as to the bonds granted by the State. The form of the amend- ment had been carried out literally, but its spirit had been ignored. He then stated the efforts that had been made to negotiate a sale or hy- pothecate the bonds in New York, and the diffi- culties there met with in the rumors as to the probable decision of the Supreme Court declaring those bonds invalid. He spoke of the contem- plated postponement of the meeting and the doubts of the advisers of the State as to its legal effects. But the Directors, on hearing the de- cision of the Supreme Court, notwithstanding the short time allowed, had determined to hold the meeting as originally appointed. Everything had been performed that was left for the Stock- holders to do but elect Directors in conformity with the amended charter, and without partici- pation by the State. But should not some one delegated with authority let the Stockholders know who had been chosen Directors on the part State, so the Stockholders would know whom to elect? One of the seven Directors of the State might otherwise be chosen, so there would be then only twelve Directors instead of thirteen, and one of these would be under the necessity of magnifying himself into two men—a thing physi- cally impossible, however easy it might other- wise be in these days of making great men out of very small material. The amendment had been accepted by the Stockholders in good faith, and they claimed the right to know if the State had performed what it is required to do under the amended charter, and the speaker hoped a resolution would be introduced calling upon the State's representative in order to ascertain this fact.

Col. R. H. Cowan, President of the Company, also thought Mr. French's resolutions premature and asked their withdrawal for the present.—This being agreed to, Col. Cowan offered the fol- lowing, which were put to a vote and adopted;

WHEREAS, it is doubtful whether the power of appointing seven Directors on the part of the State, and otherwise participating in the reorgan- ization of this Company is vested in the Governor of the State or in the Superintendent of Public Works; therefore

Resolved, That the Chairman appoint a com- mittee of two persons to comunicate to the Gov- ernor, or his representative in the city, that this Company, now in Convention, is ready to receive any communication he may wish to make relative to the reorganization.

Resolved further, That a like committee of two be appointed by the Chair to make known to the Superintendent of Public Works that this Com- pany is ready to receive from him any communi- cation he may wish to make in relation to the reorganization of the Company.

Col. Cowan, then moved that the Governor, or his representative in the city, and the Superinten- dent of Public Works be invited to seats on the floor and to participate in the meeting. Carried.

The Chairman appointed as the committee to wait upon the Governor's representative in the city, Gen. Alfred Dockery and G. Z. French, Esq. On the Superintenpent of Public Works, Hon. O. H. Dockery and Col. R. H. Cowan.

On motion of Col. Cowan, the meeting took a recess until 2½ o'clock, to assemble in the City Hall.

AFTERNOON SESSION.

The meeting was called to order by the Chair- man at the appointed hour in the City Hall.

General Dockery, from the committee to confer with the Governor, or his agent, reported that they had conferred with Mr. R. C. Badger, the Governor's representative, who had submitted a report, which the committee adopted as their re- port and presented it to the meeting. It is as follows:

Messrs. G. Z. French and
Hon. Alfred Dockery, Committee:

I have the honor to submit in answer to the resolution of the stockholders of the Wilmington, Charlotte & Rutherford Railroad Company, that I am the agent of the Governor of the State at this meeting; and that, in obedience to law, the Gov- ernor has appointed and duly commissioned the following named gentlemen to act as Directors on behalf of the State in the said Railroad Com- pany, to wit: W. Sloan, W. A. Smith, John L. Brown, John F. Aydlett, S. P. Sherrell, James McDonald, Joseph S. Cannon.

Very truly,
R. C. BADGER.

There being perceptible a great difficulty in hearing in the Hall, on motion the meeting ad- journed to the Theatre forthwith.

On again calling the meeting to order, the Chair asked for the report of the committee to wait on the Superintendent of Public Works.

Colonel Dockery from this committee submitted the following report:

To the Stockholders of the Wilmington, Charlotte and Rutherford Railroad Company, now in meeting assembled:—

GENTLEMEN: In reply to your enquiry ex- pressed in your resolution of this morning, as to what powers I claim in connection with the in- terests of the State in this meeting, I have re- spectfully to say that I claim the right to repre- sent the State as the Superintendent of Public Works; that by the Constitution, Article 3, Sec- tions 1 and 13, and the act of the General Assem- bly, entitled an "act concerning the powers and duties of State officers," passed the 12th day of April, 1869, it is made my duty to take charge of the State's interest in all railroads and other works of internal improvement in the State, and also to vote either in person or by proxy in be- half of the State, in all elections of Directors of corporations in which the State has an interest.

Under the foregoing provisions of the Consti- tution and the above recited act, I claim the right to represent the State in this meeting, and to appoint seven Directors in behalf of the State.

I am gentlemen,
very respectfully
your obedient servant,
C. L. HARRIS,
Superintendent of Public Works.

Judge Person moved that Mr. C. L. Harris, Superintendent of Public Works, claiming the authority to appoint seven Directors on the part of the State, be requested to name his appoint- ments to this meeting. Carried.

Mr. Harris, the Superintendent, asked the in- dulgence of the meeting for one hour for this purpose.

On motion of Judge Person this indulgence was granted.

Dr. Wm. Sloan introduced the following reso- lution, which was unanimously adopted by the Stockholders:

Resolved, That R. H. Cowan, President, and the present Board of Directors shall have until the next annual meeting to close up all the affairs of the Company as now organized, and for that purpose they shall retain in their hands all the assets and books of the Company which they now have in possession, and pay and satisfy all the debts and carry out the contracts heretofore contracted or made, and at or before said meet- ing they shall make a full statement of all their accounts and transactions, and deliver the same to the President and Directors under the new organization, and at the same time transfer to them the books of the Company and all assets and effects which may remain on their hands; and they may appoint any suitable person Trus- tee for the purpose of holding said assets and paying the debts; and any appointments already made, or assets made to that end, shall be valid and binding on the Company and its agents now and hereafter to all intents and purposes.

Col. Cowan, on behalf of the Directors, thanked the gentleman for this resolution.

Here a recess of an hour was taken to afford an opportunity for the Superintendent of Public Works to prepare his appointments of Directors.

At the expiration of that time, Mr. French, on behalf of Mr. Harris, announced that it would be impossible for him to report in an hour more, and that he desired to be heard through his counsel. Mr. French therefore moved that the meeting adjourn until 8 o'clock, P. M., in order to afford the Superintendent of Public Works sufficient time, which motion was carried.

[NOTE.—Being compelled to put our weekly to press before the ter mination of the meeting, we are forced to close the report of these proceed- ings at this point, but will insert the remainder in our next issue.—EDS. JOURNAL.]

The Capacity of an Acre.

Previous to the building of the Camden and Amboy railroad through New Jersey, over thirty years ago, there were tracts of land within two miles of Burlington, N. J., which were sold at $5 to $10 an acre.—The reason for these low prices was the simplest one imaginable—they did not produce the interest of the money they cost. Now some of this very land is selling at over $100 per acre, without buildings.—The cause of this advance in prices is equally plain—the land now produces much more than interest on its cost.

In any location where land can be made to produce the interest of $1,000 per acre it would seem safe to purchase it at $200. Though many acres around Burlington have produced and are still producing such returns, yet all are not. Some are very far exceeding it, while others are falling below, according to the crops cultivated and the skill and industry applied. It is to be observed, in this connection, that the best returns are realizing by perseverance, continuing at the business for a term of years, until fruits, if fruit culture be adopt- ed, have come into full bearing. A trial of a single year amounts to nothing if then abandoned, as the first year, or even an old farm, is generally one of mere prepa- ration for the second. The first may pay a profit, but not often.

Long experience in a thousand places has shown that an acre of land can be made to pay the interest on a very large sum.—Mr. Leonard, of Monmouth, obtained from asparagus the interest of $5,000, and from grapes the interest of $7,000 per acre.—Both these may be regarded as standard crops, not liable to casualty, especially asparagus. In our neighborhood some re- markable results have been secured from standard fruit crops. There is an acre of blackberries on the farm of Mr. Dulty which has produced the interest of over $8,500 gross—no doubt of $7,000 net.

The owner of a three-acre field of purple cane raspberries told me that his sales in one season produced him the interest of $25,000 gross. Large fields of even per- ishable strawberries have been made to pay the net interest of $4 500 per acre.—There is a field of two and a half acres of blackberries near me, containing twenty- six hundred plants, which last year produ- ced the interest of very nearly $30,000 net. There can be no mistake about this last crop. But it was altogether exceptional, not likely ever to be repeated, as berries were then high, and while other growers had few or none this field bore abund- antly.

The value of land is to be measured by its productiveness, not by its price. All the paying returns above recited were ob- tained by good ordinary cultivation, not by forcing or extravagant outlay. Had those been resorted to the return would have undoubtedly exceeded the extra cost. But the owners planted, cultivated, and waited until their plantings came into bearing. Such waiting is sometimes in- convenient to men of moderate means; but men wait longer for legacies which are much less valuable. Thus grapes, aspara gus and the cane-producing berries are seen to yield a larger interest for money invested in them, even on high-priced land, than can possibly be realized from low-priced land where no such markets as ours are within reach. The land at $300 per acre in such a market is cheaper than at $10 without the market. The one acre pays interest on the cost of ten acres, while the other pays interest only on its own cost. But time and patience are required to realize such returns. It is he who en- dures to the end that succeeds; not he who plants and immediately quits.

Hearth and Home.

DIED.

Died in Wilmington, N. C., on the 18th of July, A. D. 1869, after an illness, of brief but painful duration, Mrs. EMMA C. SMITH.

Yes, she is gone! She, so much beloved by all who knew her, has crossed to the "ot er shore." Her many attributes of goodness marked her as a gem of exemplary piety whose empyreal beams threw a tranquil lustre wherever she went. Though we weep because she no longer mingles with us here, we shou'd remember that the mourning strings of affection's lyre, on which she, together with us, was wont, but a short time since, to play, are not broken; but only hushed for a little while, to at last be waked in sweeter music by radiant hands in Heaven. An early grave beneath its wintry bosom may ever hide her truth imprinted face, but cannot shield from admiration the virtues of which her pure exis- tence was a beautiful synonym. Though the gloomy cypress lends its melancholy shadow to each desolate seeming spot where once she loved to linger, 'tis happiness for us to know that out of earth's ever dying garden a flower has been only culled to brighter bloom with God. "48."

In this city, on the 18th inst., of diptheria, ELIZABETH, aged 15 months and 13 days; and on 20th inst., AGNES, aged 3 years, 4 months and 20 days—daughters of Claus and Agnes Schriver.

This sad bereavement falls heavily on their earthly parents, their once hope and promise having been changed to mourning. Those little innocents are now sleeping—may we prepare to meet them.

Soaring on high, free from pain,
Though their bodies lie 'neath the sod,
Their spirits are happy, with angels above—
They have gone to their Father and God.

In this city, Wednesday the 28th instant, at 9½ o'clock, P. M., of consumption, NICHOLAS BREMER, aged 39 years, 2 months and 14 days.

In Beaufort, N. C., July 25th, 1869, BENJA- MIN L. PERRY, Esq., in the 58th year of his age.

Raleigh Episcopal Methodist please copy.

THE CHINESE.

Interesting Facts About Them—What They Can do—How they Live and what they Believe

From a very interesting letter from the special San Francisco correspondent of the Cincinnati Gazette we make the following extracts regarding the new class of citizens rapidly pouring into our country from the Oriental Empire:

What of the Chinese? Much that is interesting and important. There are in round numbers one hundred thousand of them in the Pacific States, and the new arrivals now average from fifteen hundred to two thousand per month. They abound as laborers along the whole line of the Central Pacific railroad to Promontory Point, and over this distance have pushed off into the towns as servants and trades men, and into the mines wherever allowed to come. They are spreading eastwardly slowly; there are a few in Omaha, and John Chinaman, with his round hat and pig tail coiled under it, or dangling be- tween his heels, his long blue shirt which he wears over his pantaloons, will shortly be no curiosity in the Mississippi Valley. He is on his way in force to make his fu- ture Eastern employers a visit.

Chinatown, as the quarter of the city in which the Celestials live is called, is cer tainly one of the most interesting spots to visit in California. There are about a do zen blocks, whose four sides swarm with them, and a half dozen streets for a dis- tance of several squares are filled with their stores and shops. It is a live scene. The Chinaman moves quick, and the stream in the streets seems constant, though it is heaviest when those employed over the city pour out from their quarters to their places of employment in the mor- ning, and return in the flood tide at night.

California is blessed with gold, and rich soil, and charming climate. Its resources are beyond computation. Its best citizens speak of these, and then say that of all their blessings that of Chinese labor is one of the greatest. The whole business and commerce of the State was languishing be- cause of the scarcity of laborers. But just in the time of greatest need the relief came. Women were few in California, house ser- vants could be found for the wealthiest alone. But John arrived, and though he knew nothing of American housekeeping or cooking, he learned both with almost a single lesson. And taken as a class there are no better servants in the land to- day than these, if indeed there is any class so good. And they are equally as efficient as cooks, chamber maids or nurses. Show them once or twice how to do anything within the range of their ability, and in household matters it is a wide one, and he will continue to do the thing exactly as he was shown to the end of his days.

But for John the Pacific Railroad would have been delayed three years. As an artist with shovel or drill, wheel-barrow and cart he has proved himself unsurpass- ed. He is temperate, has no rows, is not at home in a riot, knows nothing of strikes, has few holidays, boards himself, cooks his own food to his own liking, does his own washing, keeps himself scrupulous- ly clean, is always respectful, contented and jovial. He is above all other classes a most useful and pleasant person to build railroads with.

An then he is good at almost everything else where intelligent labor is required.—The largest and finest woolen mill on the coast, and in fact whose work is not equal- led elsewhere, employs Chinamen alone.—This company, after making very heavy contracts, were subjected to the test of a general strike among their white workmen. To yield to the demands was to lose large- ly, to stop was to be ruined. In this strait they decided to try Chinese. Enough were selected to attend all the machinery, and in a few days the mill was running again up to its full capacity, and produc- ing its best quality of goods. And here the most improved machinery known in such establishments is in use.

They do all the work in the most exten- sive shot towers in the West. They make all fine articles of gentlemen's wear where the neatest machine sewing is required.—They bind books and make books; they set type without knowing the language; they carve with great skill; in short, they are learning all trades rapidly, and becom- ing versed in the mysteries of all heavy machinery, and delicate and labor saving machines as well; and in all their move- ments are about as acute and regular as the machinery itself. Most of the beauti- ful photographs and stereoscopic views which the Central Pacific Railroad Company has sent throughout the East are printed, finished and mounted by Chi- namen.

Ninety-eight per cent. of those who come here can read and write their own language. Most of them are rapid in fig- uring. Their children learn our language quickly; the parents with difficulty, though they soon manage to acquire a stock of words and sentences which an- swer their purposes. They show a great anxiety to send their children to school where English is taught, though as yet few facilities have been given them, for while they pay full school taxes, they have as yet been furnished but one school house for forty pupils. As a class, there is none so law abiding—not even the Americans, and none more honest. They pay all taxes cheerfully and carefully, and the School tax of the State, though they have very small returns for the latter.

They are idolaters. This is the most difficult point in the whole problem.—Still, those who suppose that American civilization cannot stand against a few thousand or even a few millions Chinese, are borrowing much needless trouble.

Contrary to the opinions of most, the Chinamen erects no idol as God. He would no sooner do this than the Christian. His faith is this: God is good and kind, and so merciful that He will under no circumstances do us anything but good. But the Evil One hates us, and is ever watching an opportunity to injure and de- stroy us; we must conciliate him. And so Joss or Devil houses are erected, and incense is burned constantly, and offerings made to conciliate the Devil.

They believe in the sweet influence of departed spirits, that the dead are con- stantly around them to watch and guard and help. They make offerings of food at their graves, not as is said with the idea of feeding the dead, but to show them that they are remembered. Their name for God and for the influence which these departed exert is the same as that which expresses the soft warmth and effect of a Southern sun falling upon a slope which looks toward the South.

They send their dead home to bury them in the family line, so that the chain of ancestry may be complete, and the sweet influences from the spirit world flow through the line uninterruptedly. If the line is broken by an absent dead one, the influences are less regular, and the wander- ing spirit is not at rest, and instead of watching to do good, desires to injure and make trouble in return for the neglect of his body. Three times a year offerings are made to departed spirits, and a late Emperor has decreed that the Government make offerings also three times a year to spirits at large, that is to the spirits of such as have died in battle or have been lost at sea and left unburried or not re- turned to the graves where the family line is laid. This Emperor had lost some of his family at sea, and after much mourn- ing over his broken line of buried ances tors he hit upon the remedy thus described.

There is much that is beautiful and po- etical in what they term their religion, and much that shows a mind susceptible to re ligious truth. The missionary field is be ing brought to our very doors in Californ ia. The great societies of the country cannot move too promptly in efforts to ed ucate and christianize these pagans, skill- ed in all labor and accomplished in a thou sand ways, and whose coming will bless the country in many important respects.—The wave is setting in upon our shores strongly and Christian missionary effort should be immediately put forth to reclaim and mould this new element in our wealth and advancements.

But under the encouragemeat which the better classes are giving them, all this is changing. Their merchants are erecting stores, and investing in real estate. The laborers are purchasing homes and send- ing for their wives. More and more of those who go home are returning, and most of them with friends designing to stay. The attention of the great Chinese capitalists of the Empire is being turned to our coast, and the hope among many of our best business men in San Francisco is that they will very shortly be induced to take hold of great enterprises. The coin of the world has been pouring into China for generations. In Canton and Hong Kong there are many native depositors of five and six millions, any Chinese com- panies which could furnish fifty and sixty millions to such an enterprise as the Pac ific Railroad, or to steamship lines, if they could once be interested in the matter.—Chinese merchants say these men will in- vest the moment they can have full pro- tection for their persons and property un- der the laws.

LATEST NEWS
BY TELEGRAPH.

From Washington.

WASHINGTON, D. C., July 28—P. M.

Cubans here have official advices to the 20th instant.

Quesada has destroyed two important bridges on the Neuvitas and Principe railroad, and holds the country between the two cities, which is closely invested.

Both garrisons are suffering from disease and short supplies.

Several sorties from Neuvitas were driven back with serious loss.

Quesada has a number of prisoners which he holds as hostages to insure proper treatment to Cuban prisoners.

The Cubans hold several positions on the coast giving them direct communication with the Unit- ed States.

The fight at Reme dios resulted in the loss of one hundred and fity Spaniards in killed, wounded and prisoners.

The fight at Sagua Le Grand lasted several hours. The Spaniards finally drew off with a loss of three hundred.

The Cuban leaders have no doubt of their abil- ity to maintain themselves against the forces now in the field against them.

A vessel with a large amount of arms, ammu- nition, a battery and three hundred and sixty men landed near Neuvitas, and the expedition safely reached Quesada.

Further Particulars of the Memphis and Ohio Railroad Accident.

LOUISVILLE, July 28—P. M.

The entire train and its contents, except a New Orleans sleeping car, which was badly damaged, were burned. Casualties: Killed—Eugene Riley, Engineer; Chas. Childs, Fireman; Hugh McCall' passenger, from New Orleans. Badly wounded—Mrs. H. McCall, New Orleans; Joseph Neut, New Orleans; H. B. Mitchell, New Orleans; John Burt, Columbus, Miss.; Judge Caulkins and wife, New Orleans; J. Jay Buck, Clarksville; Seth Hender- son, colored, Memphis; C. H. Sage, Fulton, N. Y.; C. A. Brown, Baggage Master; John C. Duggan, Express Messenger. Slightly wounded—Wm. McCall, New Orleans; Ed. Stone, Eufaula, Ala. Mr. and Mrs. Peterson, Baton Rouge; W. S. Packer, Pittsburg; J. C. Hannah, Coffeeville, Miss.; J. C. Levy, Holly Springs, Miss.; Miss Sal- lie Michael, Londerdale; W. E. Shepherd, New Orleans; J. L. Corrill, Barton Saliabury, Stewart's Station; two children of Judge Caulkins', New Orleans. Train men—Sam Lewis, sleeping car conductor; W. D. Wray, mail agent; E. N. Boon, C. B. Webster, brakemen.

New York Market.

NEW YORK, July 29—Noon.

Stocks steady. Money 7 ₩ cent. premium.—Sterling Exchange 109¾. Gold 136. Five-twen- ties of '62, 124. North Carolina Sixes 56½; new 57. Lou siana Sixes, old, 67¼; Levees 64¼.

Flour dull and drooping. Mess Pork quiet at $33 12½@$33 25. Lard dull. Cotton quiet at 34 cents. Spirits Turpentine dull at 42@42½ cent s Rosin quiet—strained common $2 25; good $2 30.

Dutcher's Lightning Fly-Killer!

Death to the Living! Long live the Killers!

Sold by Dealers Everywhere!

june 29 232-1md&w

THE MARRIAGE RING.

ESSAYS ON THE ERRORS OF YOUTH, AND THE FOLLIES OF AGE, in regaard to SOCIAL EVILS, with certain help for the erring and un- fortunate. Sent in sealed letter envelopes, free of charge. Address, HOWARD ASSOCIATION, Box P., Philadelphia, Pa.

may 22 200-3md&w-ch

SPARKLING CATAWBA SPRINGS,

CATAWBA COUNTY, N. C.

THIS CELEBRATED WATERING PLACE, formerly called the North Carolina White Sulphur Springs, will be open for visitors on Tues- day, the first day of June.

Being situated in the Northwestern part of the State, in a country remarkable for its beauty and healthfulness—these together with the virtue of the waters—make it one of the most desirable watering places to be found.

The Mineral Waters of these Springs are White and Blue Sulphur and Chalybeate or Iron, and they possess all the finest qualities of these Waters, and are sovereign remedies for all dis eases of the liver, bowels, stomach and kidneys, eruptions of the skin, scrofula; weakness, debili- ty, dyspepsia, rheumatism, &c., &c.

The proprietor having spent a large amount in additional buildings and improvements generally, these Springs are now in a fine condition, rooms large and pleasant, and good cottages containing from two to six rooms each, well arranged for either large or small families.

Good ten pin alleys, billiard tables and other amusements. Fine BATH HOUSES for Pool, Plunge or Shower Bath, and Sulphur Bath, hot or cold.

A good Band of Music will be at the Springs the entire season, and a good Physician perma- nently located for the benefit of invalids, who may rest assured wil have every attention.

Having secured the services of Mr. J. N. Car- ter, of Virginia, who has had much experience and stands high as a Hotel keeper, visitors may rest assured that our table will be supplied with the best the market can afford, and everything done that will add to their pleasure and comfort

The cars on the Western North Carolina Rail- road will leave Salisbury for Hickory Station, the Springs depot, every morning (Sundays except- ed) in connection with the North Carolina Rail- road, avoiding delay or stoping at Salisbury, and arrive at Hickory Station in time for breakfast, where good hacks will be in readiness to take passengers over a beautiful, well shaded road to the Springs—a distance of six miles.

As an inducement for families and parties to spend two months or more, I have concluded to put board down at the follo ing low rates:

Board for one single month $50.

Board for two or more months $40 per month or at that rate.

Board per week $16.

Board per day $2 50.

Children under ten years of age and colored servants, half price. No charge for infants or children under two years of age.

J. GOLDEN WYATT,
Proprietor.

Sparkling Catawba Springs,
Catawba County, North Carolina,
May 16th, 1869. 196&15-3m

Wilmington Wholesale Prices Current.

BEESWAX, ₩ lb	40 @	42	
BRICKS, ₩ M.	10 00 @	15 00	
BARRELS, Spts T., each.			
2nd hand	2 00 @	2 25	
New	2 50 @	3 00	
CANDLES, ₩ lb.,			
Tallow	18 @	21	
Adamantine	21 @	23	
Sperm	50 @	55	
COFFEE, ₩ lb.,			
Java	37 @	40	
Laguayra	22½ @	26	
Rio	18½ @	25	
St. Domingo	25 @	28	
COTTON, ₩ lb.,			
Ord. to Mid'g	28 @	31	
Strict Mid'g	00 @	32	
COTTON BAGGING,			
Gunny, ₩ yd	21 @	22	
Dundee	26 @	28	
Rope, ₩ lb	7 @	10	
CORN MEAL, ₩ bushel	1 25 @	1 30	
DOMESTICS,			
Sheeting, ₩ yard	12 @	16	
Yarn, ₩ 5 lb	2 00 @	2 05	
FEATHERS, ₩ lb	65 @	75	
FISH, ₩ bbl.,			
Mackerel,			
No. 1	22 00 @	$25 00	
No. 2	18 00 @	20 00	
No. 3	14 00 @	16 00	
Mullets	7 50 @	10 00	
Herring,			
East	0 00 @	6 50	
N.C.roe	0 00 @	0 00	
do cut,	8 50 @	9 00	
do gross	0 00 @	7 00	
Dry Cod, ₩ lb	9 @	10	
FLOUR, ₩ bbl., Northern			
Family	7 00 @	12 50	
Superfine	5 50 @	6 00	
Fine	5 25 @	5 50	
NORTH CAROLINA,			
Family	11 50 @	12 00	
Superfine	11 00 @	11 25	
GLUE, ₩ lb	18 @	20	
GUNNY BAGS	30 @	32	
GUANO, Peruvian,			
Per ton	82 50 @	$85 00	
GRAIN, ₩ bushel,			
Corn	1 15 @	1 25	
Oats	75 @	90	
Peas, Cow	1 00 @	1 10	
Rice, rough	1 50 @	1 75	
Carolina	9½ @	10	
HIDES, ₩ lb.,			
Green	9 @	9½	
Dry	19 @	20	
HAY, ₩ 100 lbs.,			
Eastern	1 35 @	1 50	
Northern	0 75 @	90	
IRON, ₩ lb.,			
English, ass'd	8 @	10	
American, ref.	0 @	10	
American, sheer	9 @	10	
Swede	10 @	12	
Hoop, ₩ ton	130 00 @	135 00	
LIQUORS, ₩ gal., (dom.)			
Whiskey	1 50 @	2 25	
Bourbon	2 00 @	3 00	
N. E. Rum	2 00 @	3 00	
Gin	4 00 @	7 00	
Brandy	4 00 @	9 00	
do Apple	2 75 @	3 00	
do Peach	3 00 @	3 50	
LUMBER, (River,			
Fl'r Bds	15 00 @	17 00	
Wide do	12 00 @	14 00	
Scantling	10 00 @	12 00	
LIME, ₩ bbl.	0 00 @	0 00	
From store	1 50 @	00	
MOLASSES, ₩ gallon,			
Cuba, in hds	40 @	52½	
do bbls	55 @	57½	
Sugar house	00 @	40	
do bbls	42½ @	45	
Syrup, bbls	60 @	1 00	
NAVAL STORES,			
Turpentine ₩ 280 lbs.			
Virgin New	0 @	3 00	
Yellow dip	0 00 @	2 70	
Hard	0 00 @	1 60	
Tar, ₩ bbl	0 00 @	2 40	
Tar, in ordr	2 25 @	2 30	
Pitch, City	3 00 @	3 25	
Rosin, pale	4 60 @	5 50	
do No. 1	2 50 @	3 75	
do No. 2	1 70 @	1 85	
do No. 3	0 00 @	1 65	
Spirits Turpentine, ₩ gal	00 @	39	
NAILS, ₩ lb.,			
Cut	5 50 @	5 75	
OILS, ₩ gallon,			
Sperm	0 00 @	3 00	
Linseed	1 47 @	1 50	
Machinery	1 75 @	2 00	
Kerosene	40 @	42½	
PEA NUTS, ₩ bushel	1 75 @	2 10	
POTATOES,			
Sweet, bush	0 00 @	0 00	
Irish, ₩ bbl	2 50 @	3 00	
PROVISIONS, ₩ lb.,			
N. C. Bacon.			
Hams	00 @	22	
Middlings	19 @	20	
Shoulders	00 @	18	
Hog round	00 @	20	
Western Bacon			
Hams	18 @	22½	
Middlings	19½ @	20½	
Shoulders	17 @	17½	
Lard, N. C.	20 @	23	
do North'rn	17 @	21	
Butter, N. C.	25 @	30	
do North'rn	40 @	42	

THE WILMINGTON JOURNAL

WILMINGTON, N. C.,

SATURDAY, JULY 23, 1869.

THE Pittsburgh *Commercial*, the leading Republican journal in Western Pennsylvania, pays the following justly merited compliment to Hon. Asa Packer, the Democratic candidate for Governor of that State :

The Democratic candidate for Governor is a gentleman of irreproachable private character, in whom his attached friends feel an honest pride. He has amassed great wealth by successful business ventures, and in the disbursement of it to educational and benevolent purposes has manifested the utmost liberality. Mr. Packer, as a man, therefore, will receive none but kind words from us during the canvass, and we see no present reason for indulging in severe criticism.

North Carolinians in California.

We are pleased to learn that the families originally from North Carolina—among whom was Mr. Sam'l Holmes, formerly from this county—that left Mississippi and settled in California last year, are meeting with the most abundant success. They are now harvesting their crops, which they write are beyond even their most sanguine anticipations.

Mechanical Triumph.

The triumphs of mechanical science and ingenuity are daily assuming more and more wonderful proportions, and are now applied to almost every exigency of every day life. A truly magnificent illustration of this was given on the Missouri Pacific Railroad on last Sunday, when the gauge of that road, for its entire length—three hundred and eight miles—was changed, in sixteen hours, from the broad to the narrow gauge. Thirteen hundred and fifty men were employed on the work. A complete stock of three hundred and fifty cars, and forty-six new locomotives was in readiness, and on Monday the business of the road was carried on without interruption.

General Canby.

As the Raleigh *Standard* has lately resolved itself into such an enthusiastic Conservative, will it please inform some of its anxious friends what it now thinks of one of its whilom pets,—the immortal General T. R. S. Canby, under whose wise administration of affairs North Carolina was allowed to creep back into the fellowship of the Union ? The *Standard* boot-licked Canby then ; what does it think of his recent course towards the Conservative Republicans of Virginia, of which the *Standard* constitutself an honored member? What does it think of Canby, and what ! and what, shall be done with Wells ?

The Chinese Question.

Numbers of the press of this country are becoming greatly startled at the idea of introducing Chinese labor into the South, and a hue and cry has already been raised against those who propose to do so. It is inferred that all of the old time "organization of labor will be broken up, and that the artisans and mechanics of the country, as well as the laboring classes, cannot live upon the low wages for which a Coolie will work.

There is much truth in this, and much that is worthy of a careful consideration. Our people cannot weigh too carefully the many disadvantages as well as benefits that will accrue to them by the introduction here of Chinese labor. But if the experiment is to be made at all, it should be altogether an experiment, until it is ascertained, beyond a doubt, that the permanent institutions of this country will not suffer by the innovation.

On the other hand, it can well be urged that the fertile lands of the South are extensive enough for all, and that the greater the amount of labor so will there be the greater amount of productions ; that we can easily find employment here for one hundred millions of Coolie laborers, entirely outside of the limits of the cities and towns, and that, more important than all, "labor is bound to regulate itself." We need this new labor, and, if it can be obtained without necessitating the overthrow of any of our old established systems, let us have it, say we.

Virginia and North Carolina.

At the reception of Governor Walker, of Virginia, at his native town of Binghampton, N. Y., on the 15th instant, he remarked, among other things :

"The late issue was not so much a contest as to whether Republican or Democratic sentiment should prevail in the State, but the issue was whether the virtue, property and intelligence of the State should control it, or that the organized ignorance and poverty should misrule it. The virtue and property and intelligence have triumphed."

We have had the Richmond *Whig*, the asserted organ of Governor Walker, quoted to us and we now give the Governor's own words in reply. Precisely the contrary of the above may be said of the election in this State, and if the "virtue, and property and intelligence" of Virginia were triumphant, the vice, poverty and ignorance of North Carolina carried the day by its numerical strength, for it is a notorious fact that nine-tenths of the offices in this State are filled either by needy adventurers or by ignorant negroes. The scenes in the Capitol at Raleigh, during the sessions of the Convention and the Legislature, are sufficient evidences of this, to say nothing of all that meets the eye in almost every petty county and municipal office throughout the State. Every election which occurs now, to fill a vacancy, bears also a confirmation of this fact ; witness, among others, the present contest in this county for Legislative honors between two Radical candidates of the Raleigh *Standard* persuasion—one of whom is an ignorant negro and the other a Confederate deserter.

The Wilmington *Journal* is the only paper which has had the effrontery to deny that the Virginia election is a Republican triumph. It has attempted to deny that the Walker men are Republicans.—Raleigh *Standard*.

As is habitual with that sheet, the *Standard* flies the track of argument, and, with its usual disregard to truth, has crowed us with an assertion that we have never made. The party that elected Walker, and Walker himself, fought and conquered under the name and the banner of Conservative Republicans, and are no more allied with the Red-String Radical Republican party who now lord it in this State than water can be said to affiliate with fire. The party against whom these Conservative Republicans strove were not Democrats, but they called themselves *the* Republican party of Virginia, and as such were fully accredited, either positively or impliedly, by the leading Republican papers of the party. The defeated candidate, Wells, also claimed, and was accorded, a full fellowship with the Radical Republicans of the State and county, and, had he been elected, none would have been more fulsome in their praises than the *Standard*, which has now made the wonderful discovery that it always has been of the moderate Republican stripe.

If the members of the *Standard* party in this State were, as a general thing, sufficiently intelligent to understand the matter, it would be considered an insult to them for the *Standard* to thus veer so suddenly and so completely around to the opposite side of the compass. Its present editor (the ex-Democrat from Maine) may be sincere in his professions and may be guided in this by some of his earlier party principles ; and perhaps, too, he is not so much of an apostate after all. Carpet-bag Republicans in the South, it is well known, are renegades from all sorts of political opinions, and easily adopt just such as will pay well. A renegade Democrat in a Republican office is now as contemptible and disgusting a something to us as was at one time a deserter from the Southern army, in the Federal ranks.

Surely, the recently imported editor of the *Standard* is not fully aware of the course which that paper has always pursued under his many predecessors, nor how, with such editors as Holden, Sr. and Jr., Chaplain Pepper, Pilgrim Ashley, the infamous Paige, Littlefield, *et al.*, it has pursued—almost uniformly—a line of policy that has been infamous in the extreme. It has never enunciated a doctrine that was not decidedly radical, and its articles have been such, on some occasions, as would shame even old Brownlow himself. It has encouraged corruption in every shape, and has never hesitated to endorse even the most infamous measures of the most infamous members of its infamous party. It had the honor of publishing, *as an editorial*, the article headed "WORK," which caused such a burst of just indignation throughout the State, and was a warm supporter of that most villainous measure of the present Legislature, the organization of the North Carolina Detailed Militia.

This newly fledged editor of the *Standard* certainly betrays a great ignorance of the character of Gov. Holden, of the reputation of his paper, and of the principles and aims of his party, if he is sincere in his claim to be considered a Conservative Republican. Go to work, Mr. Pike, and study the record of your predecessors ; take down your files for the past two years and read there all that its half-dozen editors have enunciated, and then, if you still wish to be reckoned as a Virginia Republican, burn up your old files, wash your type, and your hands, and your pen, and then boldly come out before the world and acknowledge past errors, beg for indulgence in the future, and do as Governor Walker has done—damn the carpet-baggers.

The Suez Canal.

The two great triumphs of the year are the construction of the Pacific Railroad and the opening of the Suez Canal. The former stands as a monument of the energy and enterprise of the American people; while the latter gives evidence that there is some life in the old world yet.

The Suez Canal, although not yet finished, is very nearly so, and the 17th day of November next has been set apart as the time when it will be completed, and when the opening of this great work is to be inaugurated. The enterprise is of French origin and has been carried on under the direction of M. de Lesseps, a French engineer of great reputation.

These two works—the Suez Canal and the Pacific Railroad—are destined to work more changes in both hemispheres than are even dreamed of now. They not only pave the way to a freer intercourse between the nations of the east and those of the west, for the benefit of commercial relations, but they will eventually revolutionize the habits of life, methods of education, and even the religion of the Mohammedans and Pagans of the east. They will bring to England and France, and to the shores of America, the rich products of the oriental climes, and we will send them in return not only the results of the mechanical science and ingenuity of our greatest mechanicians, but travelers and missionaries, and perhaps colonies of actual settlers, who will carry with them the Bible instead of the sword, and who will introduce everywhere the religion of the only true God, until the uttermost parts of the earth shall hear and believe in the glad tidings of salvation.

These ideas may yet be ranked as dreams—almost as vagaries—but yet we are fully justified in believing that the accomplishment of all such is in the near future, and that the greater the facilities for intercourse between the eastern and the western world, so much more rapidly will truth, enlightenment, education and religion be spread through the now dark region of the earth.

[COMMUNICATED.]

Agricultural Resources of the Cape Fear—Letter from the State Geologist.

It is known that our State Geologist is now giving attention to the marls and soils of the Cape Fear region. The following communication from this State officer, whose public duties involves matters of immediate and great practical importance to our people, will be read with much interest. We but express the feelings and wishes of every inteligent man and woman throughout the vast and fertile region of the whole Cape Fear country, when we say to Governor Holden and Professor Kerr, that our people of all classes, colors, and parties, are extremely anxious that the Professor should resume his labors here as early as practicable, and continue them as long as possible :

RALEIGH, N. C., July 15th, 1869.

To Dr. S. S. Satchwell,
President N. C., Immigration Association:

Dear Sir :—I should do injustice, both to myself and many others, if I failed to find some means of signalizing the great gratification afforded me by the very general and intelligent interest in, and appreciation and furtherance of, my recent investigntions on the part of the citizens of the Cape Fear region. I know of no better method of accomplishing that purpose than of constituting you the means and medium of communication. Not to mention others, I am under especial obligations to Col. Cowan, Capt. Everitt, Gen. McRae, and Col. Fremont, for the very essential aid furnished by these gentlemen in placing special trains on their respective roads at my disposal. In this way and in the very cordial manner I was everywhere received, I was able to accomplish much more in the line of my investigations among the marls and soils in the counties traversed by these railroads than would otherwise have been possible in the limited time which could be devoted at present to that purpose. So much public spirit and so just an appreciation of the direction in which lie the true interests of your people and of the best means of promoting them on the part of the gentlemen named, and so many others of your influential citizens, are full of promise to the rising agriculture of your region.

I am also particularly indebted to Dr. Buie, whose extensive and minute acquaintance with the marl deposits of the Cape Fear country and whose readiness to communicate information and to assist and accompany me were of essential service in facilitating my operations.

I confess my surprise after all that has been said and written on the subject, at the discovery of both the *abundance and wide distribution* of marls in your section. But it is a matter of still greater surprise that such *mines of wealth* should be so little known and appreciated, and used by the farmers. We must change all this. I count on your Farmers Clubs and Agricultural Societies, aided by an enlightened and comprehensive railroad policy, to do much in that direction.

I have collected largely and over a considerable area, both of soils and marls of which the samples are undergoing analysis as fast as possible in the State Laboratory. The results will be given to the public at the earliest practicable moment.

It is my present purpose to return to these explorations in October, at the point where they were discontinued, and to extend them over the whole marl region of the State during the Fall and Winter.

I was very glad to receive a copy of your Address on the subject of Immigration. It contains many valuable suggestions. I agree with you fully in regard to the ownership and cultivation of too much land by almost all our farmers. It is one of the worst vices of our system and the most difficult to remove.

Yours, very truly,

W. C. KERR,
State Geologist.

DESTRUCTIVE FIRE—GREAT LOSS OF PROPERTY.—About 8½ o'clock last evening the fire bell sounded an alarm. Soon the cause became evident, the burning of the extensive barrel factory of Messrs. Stranze & Rice, on Surry between Church and Castle streets, in the southern portion of the city. The buildings and material being exceedingly combustible the whole was soon enveloped in flames. The engines hurried to the spot, and the Fire King (No. 2) being near at hand was the first to arrive and play a stream upon the fire. The Steam Fire Engine came next and played the second stream upon the burning pile which it soon followed by a third. Other engines quickly followed. In a short time the brick building adjoining the barrel factory, belonging to Mr. Rob't Henning and occupied by Mr. P Graefl, who carries on a large coopering establishment, had caught and was finally destroyed notwithstanding the efforts to save it. A large quantity of staves near at hand were burned, but the majority of those stowed in the yard were saved. Much other valuable property in the immediate vicinity was endangered—the Wilmington Gas Works and the steam saw mills of Messrs. Northrop & Cumming and Maj. J. C. Mann.

The barrel factory of Messrs. Stranze & Rice was entirely consumed. Their loss is very heavy, being estimated at fully $25,000. Upon the works and material was an insurance of $9,500—in the Atlantic, of Baltimore, the Liverpool and London and Globe, the James River, of Virginia, and the Jefferson, of Virginia. Mr. Graefl had his stock, material and tools insured for $2,000, in the Georgia Home Company which will barely cover the loss.—The loss of Mr. Henning in the destruction of his building is about $2,000, on which there was no insurance.

The origin of the fire is not definitely known. Messrs. Stranze & Rice are inclined to think it accidental, but there are reports of incendiarism. It is impossible, however, to tell definitely at this time.

Daily Journal 25th.

The language of nature and experience demonstrates that whoever would enjoy the pleasures of food, the beauties of landscape, *the joys of companionship*, the riches of literature, or the honors of station and renown, *must preserve their health*. The effect of foul, injurious food, entering the stomach, is to derange the digestive organs and produce headache, loss of appetite, unrefreshing sleep, low spirits, feverish burnings, etc., which are the symptoms of that horrid disease, *Dyspepsia*, which assumes a thousand shapes, and points toward a miserable life and premature decay. PLANTATION BITTERS will prevent, overcome and counteract all of these effects. They act with unerring power, and are taken with the pleasure of a beverage.

MAGNOLIA WATER.—Superior to the best imported German Cologne, and sold at half the price.

july 18 248—wltdeod

RATIFICATION MEETING—THE FRENCH-EAGLES-ABBOTT CLIQUE.—Last night the meeting of the faction adhering to the "clique," as it is so frequently termed by the Price-Larkins party, to ratify the nomination of Eagles, was held in Thalian Hall. The building was pretty well crowded—a large number of our Democratic friends being present to see the "elephant."

But previous to this free exhibition, torchlight processions with a few transparencies and fewer torches moved up from the several wards. The inscriptions upon some of these banners were quite ingenious and equally offensive no doubt to the parties concerned. Among these we noticed the announcement, "Steamer Bolter, Capt. Ah! Pea Barry—tickets can be had on election day for a small *Price*," and a steamer inscribed "Barry's Lyin,' for Salt River direct, Capt. Ah! Pea Barry." And these, "Our Eagle eats Rice;" "Very small Rice" [printed on what appeared to be a rice cask,] "Rice is barreled up;" "He got his Price—so did Judas;" "LittlE Rice brings a poor Price;" The Eagle Soars;" Duncan Roars." On one of the banners was a hit at Miller, a figure appearing in a bag on which was written, "A bag of wind" and above, "Mr. President, I rise to a Pint of Order," and beneath, "A Miller takes too much Rye." A caricature on Geo. R. French appeared in the form of a human head emerging from a large boot, represented as saying, "Solon I'm afraid my boots can't help you to Raleigh"—on the opposite side was written, "The Price of French boots is very low." On another banner was seen a grave and tombstone, on which was inscribed, "Here lies poor Larkins, who died August 5th, 1869, of eating too much Rice ;" and still another contained a large carpet-bag, marked "Eagles, Raleigh, N. C.," crushing upon the backs of two figures, one of which was represented as saying, "Oh ! George, take this awful load off of me," and the other responding "I can't do it, Solon, it is too much for us."

But to the interior of the big free show. After the combined procession had exhibited itself somewhat around the streets, it marched up to the building with little unwashed negroes, prompted by the craven spirit and malignant hatred of some cowardly carpet baggers, singing "Hang Jeff Davis on a sour-apple tree." When once the crowd of actors and adherents were fully in the building, G. P. Rourke (colored) was made President, who introduced "New Hampshire's third Senator" as the first speaker. With a calm air of assumed dignity this great hero and chief of carpet baggers marched forward, deposited about 47 pages of a written speech on the table, poured out a glass of water, and coolly faced the assemblage.—He was powerful on challenging *discussions* from decent men, but we notice he forgot to challenge Mr. Sprague. On the 47 pages the biggest point contained was this : "Mr." Eagles had been a first sergeant in the U. S. army, and he thought that any one who was a first sergeant would make a good Legislator—[probably so, now that ability is much below par—but if this be so, what, then, as a natural consequence, *can* be said of a Brigadier General ?] He said that Larkins' friends had been crying against a clique a "damnable clique," as they called it ; but he (the redoubtable hero of the carpet baggers) had never been able to find it—[wonder if he ever looked for it in G. Z. French's back room, among the old whiskey bottles ?]

The 46th page of the Senator's speech was devoted to a written defense to carpet-baggers—and here he raised himself on tip-toe, and exercised the muscles of his arm, and shouted in valiant tones. He would temporize no farther in the Republican party [did he temporize when Sprange was after him ?] and would ask no quarter [did he ask any then?] ; but would mete out political death, and political damnation after death, to any man who will hereafter attack a Northern man as such. He wanted this foul distinction obliterated from the Republican party, and raised the war-cry then and there, which he would sound over every mountain and valley in the State—[and if he does we will have to get Sprange after him.] Just here as the valiant Senator was pronouncing himself clothed with all the dignity of an American citizen, the lights were all suddenly extinguished and darkness and confusion reigned. Uproar, noise and confusion was the consequence. Izard French, with his glasses rendering the darkness more appalling to his vision, flew around the stage like one mad, tore candles from the transparencies and eagerly sought for lights. Rourke roared order—Abbott cried out for three cheers for Eagles—part of the crowd stampeded—the drums beat and the horns tooted. Finally, by the light of a few dim flickering candles, the valiant Senator concluded his speech, but was unable again to refer to his notes.

It was ascertained that the sudden failure of the gas was due to the want of water in the meter, which want was supplied and light obtained for Galloway to speak. His disgusting reflections upon the manner of his birth, and upon his father, and even the mother that bore him, are too familiar to those of our readers who ever heard the "Indian Senator" talk to bear repetition here. Mabson followed Galloway, and others may have followed Mabson—but we had seen enough fun and closed our minutes of the free show right there.

From the Raleigh Standard.

SUPREME COURT.

In the Case of the University Railroad Company vs. W. W. Holden—Opinions by Chief Justice Pearson and Judges Reade and Dick—Bonds for building new Railroads declared unconstitutional.

Mandamus dismissed. Power of taxation discussed. Held that the equation in Art. 1, Sec. 5, does not apply to the old debt, or to debts contracted in aid of *unfinished* roads. No power to build *new* roads without submitting the question to the people. No limit to power of Counties to levy taxes for necessary expenses, designated in Art. 7, Sec. 2 provided they obtain special law of the General Assembly, and they need not be submitted to a vote of the people.

OPINION OF CHIEF JUSTICE PEARSON.

1. I incline to the opinion that the act entitled "An act to incorporate the University Railroad Company," does not have in law the effect to create a corporation. To give legal effect to a grant, there must be a grantor, a grantee, and a thing granted. Here we have a grantor, the General Assembly; a thing granted, corporate powers and franchises "to the same extent as are possessed by the North Carolina Railroad Company;" but there is no grantee—no person, persons, or body politic to whom the grant is made. If this be so, it would seem to follow that the directors who are to manage the affairs of said "University Railroad Company;" (there being in contemplation of law no company) cannot have such rights as are enforced by the writ of *mandamus*.

II. In my opinion, by the proper construction of art. 5, sec. 5, of the Constitution, the General Assembly has no power to contract a debt to build a *new* railroad, unless the subject be submitted to a vote of the people. It is decided [Galloway vs. Jenkins, 63 N. C., rep., 147] the General Assembly has no power to contract a debt, without a vote of the people, *to aid* in the construction of a new railroad. If the General Assembly has no power to contract a debt for the purpose of building a new railroad, with the assistance of contributions by individuals, county subscriptions, and subscriptions by other railroads, it would seem it cannot have power to contract a debt for the purpose of making a new railroad out and out. A prohibition not to contract a lesser, surely amounts to a prohibition not to contract a greater debt for the same object. The evil which the Constitution seeks to prevent is not that of giving aid to individuals or corporations in the construction of railroads ; but the evil is that of contracting *new* debts on the part of the State, the existing debt being almost too heavy to bear, and the credit of the State tottering under the load. A construction by which new debts may be contracted on a larger scale than one expressly prohibited, is not admissible upon any principle of law. As this is a deduction from Galloway vs. Jenkins, in which the Court was divided, I will put my conclusion also on the construction of all the provisions of Art. 5.

III. The act under consideration is in violation of the Constitution in this : the tax levied by it disturbs the proportion which, by the Constitution, capitation tax must bear to the tax on the value of property, to-wit : "*The tax on a poll shall be equal to the tax on three hundred dollars worth of property.*" Here we have the proportion. Then follows a provision : "The State and county tax combined shall never exceed *two dollars on the head*," and the necessary effect is that the State and county tax on the value of property shall never exceed two dollars on three hundred worth of property ; and the effect also is that if the tax on a poll is less than two dollars, then the tax on three hundred dollars worth of property must be less in the same ratio. In other words, the tax on the poll is "*the standard*" by which the tax on property is to be levied.

Under two dollars, the power to levy a poll tax for State purposes is unlimited ; *this interest* needed no protection, for it has a full representation in the General Assembly.

Counties are protected by Sec. 7, which provides "taxes levied for county purposes shall be levied in like manner with the State taxes, and shall never exceed double of the State tax, except for a special purpose and with the special approval of the General Assembly.

Cities, towns and *townships* are protected, [Art. 7, Sec. 7,] which provides, "no debt shall be contracted, nor shall any tax be levied except for necessary expenses, unless by a vote of a majority of the qualified voters therein."

The only remaining interest is that of *property holders* in respect to State and county taxes. This interest is protected by the equation fixed between capitation tax and tax on property. A statute which disturbs this equation breaks down the safeguard thrown around property by the Constitution. If it can be done to the extent of one hundredth of one per cent., it may be done to the extent of one tenth, and there is no limit.

It was urged on the argument, this equation applies only to taxes levied for current expenses of the State and counties, and has no reference to taxation, necessary to pay the interest of the public debt, or the tax to be levied to pay the interest of any new debt.

1st. I agree that, if, under this equation, carried to its limit, the amount is not enough to meet current expenses, and also to pay the interest on the public debt, then for the excess needed it is not only within the power, but it is the duty of the General Assembly to disregard the equation ; for this protection to property must be taken to be subject to the injunction, "to maintain the honor and good faith of the State untarnished, in regard to the public debt," [Art. 1, sec. 6] and by sec. 4 of the article under consideration, it is ordained, "The General Assembly shall, by *appropriate legislation and adequate taxation*, provide for the payment of the interest on the public debt, and after 1880 it shall lay a specific annual tax, as a sinking fund, to discharge the principal." I do not adopt the entire position taken by Mr. Haywood, that a *specific* tax is meant a tax on land by the acre or on horses and cattle by the head. It is enough to admit that this tax is to be independent of the equation ; as in sec. 7 a tax for special county purposes, with the special approval of the General Assembly, may be levied without reference to the equation.

2. But I do not agree to the position that the tax required by sec. 5, to be levied to pay the interest on any new debt, is not subject to the equation ; and that the power to tax property in reference to new debts is unlimited, save by the discretion of the General Assembly. There is nothing, as we have seen in the case in regard to taxation to meet the interest and principal of the existing debt, to take this taxation out of the equation. Its being called a special tax cannot have that effect; for section 8 requires that every act shall state the special object to which the tax is to be applied. On the contrary, it is included in the equation by every rule of construction.

This fixed equation between poll tax and property tax, gives significance to the proviso in the first clause, section 5. "No new debt shall be contracted in behalf of the State, *unless in the same bill a special tax* is levied to pay the *interest annually*.

If the purpose was simply to keep up the price of State bonds, this would amount to but little—such a tax is very easily put in a bill—but consider the purpose to be to restrain the power of taxation in regard to property, by reference to the equation before fixed, so that the special tax on property cannot be levied without making a corresponding increase in the capitation tax, and this proviso amounts to a very important practical limitation on the power to tax property, and must have a very decided effect in checking a disposition to contract new debts.

And the exception in regard to "supplying a casual deficit," and for "suppressing insurrection or invasion," in which cases the equation may be disregarded, speaks volumes, and shows that more was intended, in requiring a tax to be levied in the *same bill*, than simply to put the draftsman to the task of adding a clause to the bill. It is only in exigencies that this safeguard to property is not to be observed.

Except out of the operation of section 1 the taxation that may be "appropriate and adequate" to meet the interest and principal of the existing debt ; except also out of its operation the taxation necessary to meet the interest and principal of such new debts as shall be contracted in behalf of the State, and the effect will be to emasculate the section and fritter it away to nothing. Only current expenses are left for it to operate on ; and these expenses may be met by the tax on trades, professions, franchises and incomes [sec. 3] which are not embraced by the equation. So by the construction contended for, this supposed protection to property-holders is made void and illusory, and after all amounts to nothing.

On the argument, it was also argued : the bill levying this tax on property, to pay the interest of the debt to be contracted for the University R. R., was passed several days *before* the bill called "the revenue act," which fixes the capitation tax at 105 cents on the head, and the property tax at 35 cents on the $100 worth, observing the equation of taxation ; and if this equation must be adhered to, the effect will be, either to nullify all of the taxation of the session, or to displace *pro tanto* a part of the tax on property in the revenue bill, in order to make room for the tax on the University bill "*prior est in tempore*," &c.

I do not concur in either of the conclusions. All of the bills, at the same session, are to be taken together. The revenue bill being in exact accordance with the Constitution, must take effect, and it specially appropriates the amount to be raised under it, to the annual expenses of the State government, and to the payment of the interest of the public debt. So the scope of the legislation is : If the General Assembly has power to lay a tax to pay the interest on the debt for the University R. R. without being limited by the equation, then the tax is to be levied. Otherwise it will fail as being levied *ultra vires*, and the General Assembly assumes an unlimited power of taxation.

Several cases were supposed in the argument, but they all involved the fallacy, that the General Assembly and County Commissioners have an *independent* power to tax property to the extent of 66⅔ cents on the $100 value, whereas, there is no such power, and the right to tax property depends on the capitation tax. Both must be exercised jointly, in order to preserve the equation of taxation.

Order in the court below reversed and mandamus dismissed.

PEARSON, C. J.

OPINION OF JUSTICE READE.

I agree with the Chief Justice, that no corporation is created by the act, and, therefore, the mandamus must be dismissed.

I do not agree with him and my learned brothers, Rodman and Dick, that the Legislature has no power to contract a debt to build a new railroad without a vote of the people ; but I do agree that the Legislature has no power to *give* or *lend* its aid *to others* to build a new railroad without a vote of the people. In so far as the questions discussed in this case are involved in the case of Galloway vs. Jenkins, (63 N. C. R.,) I feel myself bound by that decision, although I did not concur in it. But I am wholly unable to comprehend how it follows that because the State cannot *lend* its aid to others to build a railroad for *their benefit*, that, therefore, it cannot build a railroad out and out for *its own benefit* ? !—If the Constitution forbade the Legislature to lend the aid of the State to New York to build a State House or Penitentiary for New York, would it be supposed that, therefore, the Legislature could not build a State House or Penitentiary, "out and out," for North Carolina ? Or would it be supposed that this view was answered by the argument that the greater includes the less, and if it cannot build a road with the aid of others, it cannot build one without such aid ? It is said that the object was to prevent the Legislature from contracting new debts. And yet it is admitted that it may contract new debts for other purposes than railroads. If the object was to keep the State from going in debt, why not keep it from going in debt for other purposes ? "If a farmer have a field requiring a fence on three sides, would it do any good to fence it on only two sides ?" But ! will you pursue the matter further. And I purposely refrain from approving or disapproving the internal improvement policy, because it is not a Judge's province to do so. I only seek to expound what has been done by the Constitution and by the Legislature. If the law-makers have erred in matters of policy, the remedy is with the people.

My construction of the taxing power of the Legislature under the Constitution is as follows :

1. The first object of the Convention in the 5th Art. of the Constitution was to provide for the ordinary and current expenses of the government. That is done in sections 1, 2 and 3. And for that purpose the tax is limited to $2 on the poll, and the same amount on $300 worth of property, and equation must be observed. This was thought to be sufficient for the ordinary and economical administration of the government.

2. We had a considerable public debt, and, after providing for current expenses, the next consideration was, how is the public debt to be met ? And the 4th section provides that a specific tax shall be laid for that.

In regard to the construction of the first four sections I do not understand that there is any difference of opinion among the Judges, except it may be as to what constitutes "the public debt."

3. Taxation is not the subject of the 5th section except incidentally. Having provided in sections 1, 2 and 3 for ordinary expenses, and in section 4 for the public debt, the next consideration was to provide for extraordinary occasions. And for such occasions the 5th section provides, not that taxes shall be laid, but that bonds shall be issued ; and, as incident to the bonds, special taxes may be laid, not to pay the bonds but only the interest, leaving the bonds as a part of the public debt, to be provided for under section 4. The power to issue these bonds is unrestricted. From the very nature of the case it must be so. If an extraordinary and unforeseen occasion is to be met, how is it possible to limit the means unless you foreknow the occasion? If there be an insurrection, bonds must be issued to meet it; but whether a large or small amount, must depend upon whether it be a large or small insurrection, and so with any other occasion. It ought not to be supposed, that a Constitution would be framed with such limitations upon the taxing power as that the vessel of State will sail safely in fair weather, to be wrecked in the first storm. We may well impute it to wisdom to provide, that ordinarily there shall be light taxes and economy in expenditures, but when any extraordinary necessity arises the whole power of the State must be unloosed to meet it. It is admitted that the counties, for special purposes and with the approval of the Legislature, may, under section 7, levy a tax without limit and without a vote of the people. It was supposed that extraordinary necessities may fall upon a county, and may not extraordinary necessities fall upon the State? It need not be inferred that either county or State taxes will be excessive, because the counties and Legislature have the *power* in extraordinary cases to make them so. Until the new Constitution there was no restriction whatever upon the power of the Legislature to tax ; and yet the taxes were never burdensome. There was supposed to be a sufficient check in the accountability of the representative to his constituents. The restriction in our new Constitution is deemed a wise one—induced, probably, by the new order of things, and intended to protect the non-property holder from an oppressive poll tax, and the property holder from an unequal property tax, for the ordinary purposes of the government.

I admit that the Legislature cannot give or lend anything to railroads which belong to others, without a vote of the people; but if any extraordinary occasion or necessity arises the Legislature may do anything for the State which the occasion may require—may issue bonds at par without limit, and without tax, and issue them below par with a special tax. For any abuse of this power the representative is responsible to the people. All that the court can say is, thus it is written in the Constitution.

OPINION OF JUSTICE DICK.

The important questions which are involved in this case were ably discussed by counsel at the bar, and they have been maturely considered by the court. I concur with the other Justices in believing that the act incorporating the University R. R. Co. is unconstitutional, and the reasons for such opinion are fully stated by Chief Justice Pearson and Justice Rodman. The difference of opinion upon the Legislative power of taxation has caused some delay in the decision of this case. I think it proper to state the conclusions at which I have arrived, without attempting any elaborate argument on the subject.

The power of taxation is one of the chief attributes of sovereignty, and no constitutional government can exist without it.—In Republican governments the usual safeguard against the abuse of this power, is the responsibility of the Legislature to its constituents. Until the formation of our present government no other safe-guard against unjust and oppressive taxation was placed in the Constitution of this State.

When the Convention of 1868 met to remodel our State government, it saw proper to impose some constitutional restrictions upon the Legislature in relation to the exercise of this power.

We must suppose that the framers of our government did not intend by these restrictions to limit the Legislature in such a manner as to prevent it from sustaining the honor and credit of the State, providing for the exigencies of the government and advancing the best interests of the people. We ought to consider the circumstances by which the Convention was surrounded and construe these restrictions with due liberality. It seems to me that the Convention in framing that part of the Constitution which relates to taxation had several objects in view.

The first object was to secure the honor and credit of the State. There was a large State debt which had been incurred in developing the resources of the State ; and not only common honesty but good policy required that it sould be secured, and the accruing interest promptly paid. For the purpose of gaining public confidence, the solemn assurance was placed in the Declaration of Rights (Art. 1, Sec. 6,) that the State debt "shall be regarded as inviolable and never be questioned ;" and then to meet this obligation the imperative duty was imposed upon the General Assembly to make provision for its payment "by appropriate legislation and adequate taxation." (Art. 5, Sec. 4.) Upon a question in which the honor and credit of the State are involved, we cannot believe that any restrictions are placed upon the Legislature which would in any manner prevent it from promptly performing an imperative duty.

The object of the Convention in Art. 5, Sec. 1, was to provide a system of general taxation for the ordinary expenses of the government, which is to operate with a just equality upon the citizens and property of the country. The capitation tax is limited to two dollars on the head, and for the purposes of general taxation the tax on three hundred dollars worth of property cannot exceed that amount.—Sections 1, 2 and 3 establish a general revenue system for the State ; and sections 4 and 5 provide special taxes for State indebtedness, unexpected exigencies, and for the completion of unfinished railroads.

The object of section 5 was to place a restriction upon the increase of the public debt until the bonds of the State shall be at par. This restriction cannot, under any circumstances, extend to a debt incurred for a casual deficit, or for suppressing insurrection or invasion ; and when the bonds of the State are at par, the restriction ceases as to all new debts in behalf of the State.

The restriction in this section requires the Legislature to provide for the payment of the interest of any new debt incurred by a special tax. As to this tax the Legislature becomes directly accountable to its constituents, and this is, in general, a sufficient security against improper legislation in a republican government where elections are free and frequent. This section does not regulate taxation, but provides the manner in which new debts are to be incurred for the general wefare of the people. The Convention evidently contemplated the necessity of incurring new debts, outside of the ordinary expenses of the government ; and if the State credit had been at par no restriction would have been placed on the Legislature in this respect. The debts to be thus incurred are to be "in behalf of the State," and for the benefit of all citizens, and not for any special locality or section.

When the State can get par value for its bonds, and expends the money for the equal benefit of all its citizens, then there can be no impolicy or danger in using its credit for such purposes. The debt is incurred by all for the benefit of all. The special tax mentioned in this section must be adequate for the purposes intended and cannot be regulated and restricted by section 1.

The manifest purpose of the Convention was to provide for the completion, as soon as practicable—of the Railroad system which had been commenced in the State—and the only restriction laid on the Legislature in issuing bonds for such purpose is, to levy a special tax to meet the interest while the bonds are under par.

In my opinion no new Railroad can be built with State aid, unless the subject is submitted to a vote of the people, &c.—(Art. 5 sec. 5.)

It was intended that the special taxes mentioned in sections 4 and 5 were to be restricted by the equation established in section 1—then we must believe that the Convention either greatly over-estimated the sources of taxation, or was not honest in its solemn pledge, "To maintain the honor and good faith of the State untarnished," and was so unwise as not to provide for emergencies which might arise in the administration of the government. I am not disposed by a narrow construction of article 5 of the Constitution to cast such imputations upon the framers of our government. I cannot believe that the Convention intended to make the very existence of the government dependent upon a certain equation of taxation.

The power of the Commissioners of counties to levy taxes is limited and regulated by Art. 5, Sec. 7, and Art. 7, Sec. 7, as follows:

1st. County taxes shall be levied in the same manner as State taxes.

2d. Such taxes shall never exceed double of the State taxes, except for a special purpose.

3d. Taxes for a special purpose must have the special approval of the General Assembly.

4th. If this special purpose is for necessary expenses and is approved of by the General Assembly, then the extent of the necessity is the only limit to the tax.

5th. No debts, &c., can be incurred by a county, except for necessary expenses unless by a vote of the people.

6th. Necessary expenses are such as are incurred by the Commissioners in the general supervision and control of county affairs, as specified in Art. 7, Sec. 2.

The wisdom of the policy of placing restrictions upon the representatives of the people as to the subject of taxation has been greatly doubted by the wisest statesmen. It is not my purpose to question the policy, but to construe the instrument which contains it. The consideration of the great interests of the State, as connected with a liberal and enlightened system of internal improvements, belongs not to the judicial forum. Judges must construe the law as it is written.

I concur in the opinion that the proceedings in this case must be dismissed.

DICK, J.